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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 II.

NEW YORK:

D. APPLETON AND COMPANY,

440 AND 445 BROADWAY.

LONDON: 16 LITTLE BRITAIN.

1861.

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[Pg 2]

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## FOURTH CONGRESS.—SECOND SESSION.

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BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 5, 1796.

PROCEEDINGS IN THE SENATE.

MONDAY, December 5, 1796.

PRESENT:

JOHN ADAMS, Vice President of the United States, and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

BENJAMIN GOODHUE, from Massachusetts.

WILLIAM BRADFORD, from Rhode Island.

JAMES HILLHOUSE and URIAH TRACY, from Connecticut.

ELIJAH PAINE, and ISAAC TICHENOR, from Vermont.

JOHN RUTHERFORD and RICHARD STOCKTON, from New Jersey.

WILLIAM BINGHAM, from Pennsylvania.

HENRY LATIMER, from Delaware.

HUMPHREY MARSHALL, from Kentucky.

WILLIAM COCKE, from Tennessee.

JACOB READ, from South Carolina.

JAMES GUNN, from Georgia.

The number of Senators present not being sufficient to constitute a quorum, they adjourned to 11 o'clock to-morrow morning.

TUESDAY, December 6.

ALEXANDER MARTIN, from the State of North Carolina, and WILLIAM BLOUNT, from the State of Tennessee, severally attended.

The VICE PRESIDENT communicated a letter from PIERCE BUTLER, notifying the resignation of his seat in the Senate, which was read.

The credentials of the after-named Senators were severally read:—Of BENJAMIN GOODHUE, appointed a Senator by the State of Massachusetts, in place of GEORGE CABOT, resigned; of ISAAC

TICHENOR, appointed a Senator by the State of Vermont, in place of MOSES ROBINSON, resigned; of JAMES HILLHOUSE, appointed a Senator by the State of Connecticut in place of OLIVER ELLSWORTH, whose seat is become vacant; of URIAH TRACY, appointed a Senator by the State of Connecticut, in place of JONATHAN TRUMBULL, resigned; of JOHN LAURANCE, appointed a Senator by the State of New York, in place of RUFUS KING, whose seat is become vacant; of RICHARD STOCKTON, appointed a Senator by the State of New Jersey, in place of FREDERICK FRELINGHUYSEN, resigned; also, of WILLIAM BLOUNT and WILLIAM COCKE, appointed Senators by the State of Tennessee;—and, the oath required by law being respectively administered to them, they took their seats in the Senate.

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.

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled.

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

A message from the House of Representatives informed the Senate that they have appointed a joint committee, on their part, together with such committee as the Senate may 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 that he may be pleased to make to them.

*Resolved*, That the Senate concur in the above resolution, and that Messrs. READ and LIVERMORE be the joint committee on the part of the Senate.

*Ordered*, That the Secretary acquaint the House of Representatives therewith.

Mr. READ reported, from the joint committee appointed for that purpose, that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress are assembled, and that the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives' Chamber, at twelve o'clock to-morrow.

### **WEDNESDAY, December 7.**

JOHN HENRY, from the State of Maryland, attended.

A message from the House of Representatives informed the Senate that they 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.

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Whereupon, the Senate repaired to the Chamber of the House of Representatives, for the purpose above expressed.

The Senate returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES, this day addressed to both Houses of Congress, was read. [For which, see the proceedings in the House of Representatives of December 7, *post*.]

*Ordered*, That Messrs. READ, TRACY, and BINGHAM, 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.

It was further ordered that the Speech of the PRESIDENT OF THE UNITED STATES, this day communicated to both Houses, be printed for the use of the Senate.

*Resolved*, That each Senator be supplied, during the present session, with copies of three such newspapers printed in any of the States as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

### **THURSDAY, December 8.**

JOHN LAURANCE, from the State of New York, attended, and, the oath required by law being administered to him, he took his seat in the Senate.

*Ordered*, That Messrs. STOCKTON, READ, and BINGHAM, be a committee to inquire whether any, and what, regulations are proper to be made, on the subject of the resignation of a Senator of the United States.

### **FRIDAY, December 9.**

TIMOTHY BLOODWORTH, from the State of North Carolina, attended.

A message from the House of Representatives informed the Senate that they have resolved that two Chaplains 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.

Whereupon, the Senate

*Resolved*, That they do concur therein, and that the Right Reverend Bishop WHITE be Chaplain on the part of the Senate.

Mr. READ, from the committee appointed for the 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.

On motion that it be printed for the use of the Senate, it passed in the negative.

On motion, it was agreed to consider the report in paragraphs; and, after debate, a motion was made for recommitment, which passed in the negative; and, having agreed to amend the report, the further consideration thereof was postponed.

## **SATURDAY, December 10.**

### ***Address to the President.***

The Senate resumed the consideration of the report of the committee in answer to the Address of the PRESIDENT OF THE UNITED STATES to both Houses of Congress; and, after further amendments, it was unanimously adopted, as follows:

We thank you, sir, for your faithful and detailed exposure of the existing situation of our country; and we sincerely join in sentiments of gratitude to an overruling Providence for the distinguished share of public prosperity and private happiness which the people of the United States so peculiarly enjoy.

We are fully sensible of the advantages that have resulted from the adoption of measures (which you have successfully carried into effect) to preserve peace, cultivate friendship, and promote civilization, amongst the Indian tribes on the Western frontiers; feelings of humanity, and the most solid political interests, equally encourage the continuance of this system.

We observe, with pleasure, that the delivery of the military posts, lately occupied by the British forces, within the territory of the United States, was made with cordiality and promptitude, as soon as circumstances would admit; and that the other provisions of our treaties with Great Britain and Spain, that were objects of eventual arrangement, are about being carried into effect, with entire harmony and good faith.

The unfortunate but unavoidable difficulties that opposed a timely compliance with the terms of the Algerine Treaty, are much to be lamented; as they may occasion a temporary suspension of the advantages to be derived from a solid peace with that power, and a perfect security from its predatory warfare; at the same time, the lively impressions that affected the public mind on the redemption of our captive fellow-citizens, afford the most laudable incentive to our exertions to remove the remaining obstacles.

We perfectly coincide with you in opinion, that the importance of our commerce demands a naval force for its protection against foreign insult and depredation, and our solicitude to attain that object will be always proportionate to its magnitude.

The necessity of accelerating the establishment of certain useful manufactures, by the intervention of the Legislative aid and protection, and the encouragement due to agriculture by the creation of Boards, (composed of intelligent individuals,) to patronize this primary pursuit of society, are subjects which will readily engage our most serious attention.

A National University may be converted to the most useful purposes; the science of legislation being so essentially dependent on the endowments of the mind, the public interests must receive effectual aid from the general diffusion of knowledge; and the United States will assume a more dignified station among the nations of the earth, by the successful cultivation of the higher branches of literature.

A Military Academy may be likewise rendered equally important. To aid and direct the physical force of the nation, by cherishing a military spirit, enforcing a proper sense of discipline, and inculcating a scientific system of tactics, is consonant to the soundest maxims of public policy. Connected with, and supported by such an establishment, a well regulated militia, constituting the natural defence of the country, would prove the most effectual, as well as economical, preservative of peace.

We cannot but consider, with serious apprehensions, the inadequate compensations of the public officers, especially of those in the more important stations. It is not only a violation of the spirit of a public contract, but is an evil so extensive in its operation, and so destructive in its consequences, that we trust it will receive the most pointed Legislative attention.

We sincerely lament that, whilst the conduct of the United States has been uniformly impressed with the character of equity, moderation, and love of peace, in the maintenance of all their foreign relationships, our trade should be so harassed by the cruisers and agents of the Republic of France, throughout the extensive departments of the West Indies.

Whilst we are confident that no cause of complaint exists that could authorize an interruption of our tranquillity or disengage that Republic from the bonds of amity, cemented by the faith of treaties, we cannot but express our deepest regrets that official communications have been made to you, indicating a more serious



disturbance of our commerce. Although we cherish the expectation that a sense of justice, and a consideration of our mutual interests, will moderate their councils, we are not unmindful of the situation in which events may place us, nor unprepared to adopt that system of conduct, which, compatible with the dignity of a respectable nation, necessity may compel us to pursue.

We cordially acquiesce in the reflection, that the United States, under the operation of the Federal Government, have experienced a most rapid aggrandizement and prosperity, as well political as commercial.

Whilst contemplating the causes that produce this auspicious result, we must acknowledge the excellence of the constitutional system, and the wisdom of the Legislative provisions; but we should be deficient in gratitude and justice did we not attribute a great portion of these advantages to the virtue, firmness, and talents of your Administration—which have been conspicuously displayed in the most trying times, and on the most critical occasions. It is, therefore, with the sincerest regret that we now receive an official notification of your intentions to retire from the public employment of your country.

When we review the various scenes of your public life, so long and so successfully devoted to the most arduous services, civil and military, as well during the struggles of the American Revolution, as the convulsive periods of a recent date; we cannot look forward to your retirement without our warmest affections and most anxious regards accompanying you, and without mingling with our fellow-citizens at large in the sincerest wishes for your personal happiness that sensibility and attachment can express.

The most effectual consolation that can offer for the loss we are about to sustain, arises from the animating reflection, that the influence of your example will extend to your successors, and the United States thus continue to enjoy an able, upright, and energetic Administration.

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. READ 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 on Monday next, at twelve o'clock, at his own house. Whereupon,

*Resolved*, That the Senate will, on Monday next, at twelve o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

### **MONDAY, December 12.**

THEODORE FOSTER, from the State of Rhode Island; JOHN BROWN, from the State of Kentucky; and HENRY TAZEWELL, from the State of Virginia, severally attended.

#### ***Address to the President.***

Agreeably to the resolution of the 10th instant, 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 made the following reply:

GENTLEMEN: It affords me great satisfaction to find in your Address a concurrence in sentiment with me on the various topics which I presented for your information and deliberation; and that the latter will receive from you an attention proportioned to their respective importance.

For the notice you take of my public services, civil and military, and your kind wishes for my personal happiness, I beg you to accept my cordial thanks. Those services, and greater, had I possessed ability to render them, were due to the unanimous calls of my country, and its approbation is my abundant reward.

When contemplating the period of my retirement, I saw virtuous and enlightened men, among whom I relied on the discernment and patriotism of my fellow-citizens to make the proper choice of a successor; men who would require no influential example to ensure to the United States "an able, upright, and energetic Administration." To such men I shall cheerfully yield the palm of genius and talents to serve our common country; but, at the same time, I hope I may be indulged in expressing the consoling reflection, (which consciousness suggests,) and to bear it with me to my grave, that none can serve it with purer intentions than I have done, or with a more disinterested zeal.

G. WASHINGTON.

The Senate returned to their own Chamber, and then adjourned.

## **WEDNESDAY, December 21.**

THEODORE SEDGWICK, appointed a Senator by the State of Massachusetts, in place of CALEB STRONG, resigned, attended, produced his credentials, and the oath required by law being administered to him, he took his seat in the Senate.

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## **TUESDAY, December 27.**

JOHN EAGER HOWARD, appointed a Senator by the State of Maryland, in place of RICHARD POTTS, resigned, produced his credentials, and the oath required by law being administered, he took his seat in the Senate.

JOSIAH TATTNALL, from the State of Georgia, attended.

## **WEDNESDAY, December 28.**

JAMES ROSS, from the State of Pennsylvania, attended.

## **WEDNESDAY, January 11, 1797.**

JOHN VINING, from the State of Delaware, attended.

## **THURSDAY, January 12.**

AARON BURR, from the State of New York, and STEVENS THOMSON MASON, from the State of Virginia, attended.

## **FRIDAY, January 27.**

JOHN HUNTER, appointed a Senator by the State of South Carolina, in place of PIERCE BUTLER, resigned, attended, produced his credentials, and the oath required by law, being administered to him, he took his seat in the Senate.

## **THURSDAY, February 2.**

MR. SEDGWICK reported, from the joint committee appointed on the part of the Senate, on the subject of the election of PRESIDENT and VICE PRESIDENT, that, in their opinion, the following resolution ought to be adopted, viz:

"That the two Houses shall assemble in the Chamber of the House of Representatives 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 votes, be entered on the journals of the two Houses."

## **WEDNESDAY, February 8.**

A message from the House of Representatives informed the Senate that they are ready to meet the Senate in the Chamber of that House, agreeably to the report of the joint committee, to attend the opening and examining the votes of the Electors for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, as the constitution provides.

The two Houses of Congress accordingly assembled in the Representatives' Chamber, and the certificates of the Electors of sixteen States were, by the VICE PRESIDENT, opened and delivered to the tellers, appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the VICE PRESIDENT, which was read as follows:

For John Adams, 71 votes; for Thomas Jefferson, 68; for Thomas Pinckney, 59; for Aaron Burr, 30; for Samuel Adams, 15; for Oliver Ellsworth, 11; for George Clinton, 7; for John Jay, 5; for James Iredell 2; for George Washington, 2; for John Henry, 2; for Samuel Johnson, 2; for Charles Cotesworth Pinckney, 1;

Whereupon the VICE PRESIDENT addressed the two Houses of Congress as follows:

In obedience to the Constitution and law of the United States, and to the commands of both Houses of Congress, expressed in their resolution passed in the present session, I now declare that

JOHN ADAMS is elected President of the United States, for four years, to commence with the fourth day of March next; and that

THOMAS JEFFERSON is elected Vice President of the United States, for four years, to commence with the fourth day of March next. And may the Sovereign of the Universe, the ordainer of civil government on earth, for the preservation of liberty, justice, and peace among men, enable both to discharge the duties of these offices

conformably to the Constitution of the United States, with conscientious diligence, punctuality, and perseverance.

The VICE PRESIDENT then delivered the votes of the Electors to the Secretary of the Senate, the two Houses of Congress separated, and the Senate returned to their own Chamber, and soon after adjourned.

## THURSDAY, February 9.

The VICE PRESIDENT laid before the Senate the following communication:

*Gentlemen of the Senate:*

In consequence of the declaration made yesterday in the Chamber of the House of Representatives of the election of a President and Vice President of the United States, the record of which has just now been read from your journal by your Secretary, I have judged it proper to give notice that, on the 4th of March next at 12 o'clock I propose, to attend again in the Chamber of the House of Representatives, in order to take the oath prescribed by the Constitution of the United States to be taken by the President, to be administered by the Chief Justice or such other Judge of the Supreme Court of the United States as can most conveniently attend; and, in case none of those Judges can attend, by the Judge of the District of Pennsylvania, before such Senators and Representatives of the United States as may find it convenient to honor the transaction with their presence.

*Ordered*, That the Secretary carry an attested copy of this communication to the House of Representatives.

*Ordered*, That Messrs. SEDGWICK, TAZEWELL, and READ, be a joint committee, with such committee as may be appointed on the part of the House of Representatives, to consider whether any, and if any, what measures ought to be adopted for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing on the 4th day of March next.

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*Ordered*, That the Secretary desire the concurrence of the House of Representatives in the appointment of a joint committee on their part.

A message from the House of Representatives informed the Senate that they have agreed to the report of the joint committee appointed to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and of notifying the persons elected of their election.

Mr. SEDGWICK, from the joint committee to whom it was referred to join such committee as might be appointed by the House of Representatives to ascertain and report a mode of examining the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and of notifying the persons elected of their election, reported that, having further concurred with the committee appointed by the House of Representatives, that, in their opinion, the following resolution ought to be adopted by the Senate:

"*Resolved*, That the Secretary of the Senate be directed to give, by letter, to the Vice President elect, a notification of his election."

On motion, it was agreed to insert the PRESIDENT of the Senate instead of the Secretary; and,

On motion, it was agreed to reconsider the resolution, and to recommit the report from the joint committee.

Mr. SEDGWICK reported, from the joint committee last mentioned, that the committee on the part of the House of Representatives considered themselves discharged from their commission.

*Resolved*, That the Senate disagree to the report of the joint committee on the mode of notifying the VICE PRESIDENT elect of his election; and that a committee be appointed on the part of the Senate, to confer with such committee as may be appointed on the part of the House of Representatives, on the report of the joint committee above mentioned; and that Messrs. SEDGWICK, LAURANCE and READ, be the managers at the conference on the part of the Senate.

*Ordered*, That the Secretary acquaint the House of Representatives therewith.

On motion, that it be

"*Resolved*, That the Secretary of the Senate be directed, and he is hereby directed, to lay before the President of the United States a copy of the journal of yesterday, relative to the opening and counting of votes for President and Vice President of the United States, and the declaration of the President of the Senate thereon; and, also, to present to the President of the United States a copy of the notification given by the President elect of the time, place, and manner, of qualifying to execute the duties of his office."

*Ordered*, That the motion lie until to-morrow for consideration.

## FRIDAY, February 10.

The Senate resumed the consideration of the motion made yesterday, that the Secretary of the Senate wait on the PRESIDENT OF THE UNITED STATES, and notify him of the election of PRESIDENT and

VICE PRESIDENT OF THE UNITED STATES, to commence with the 4th day of March next.

On motion, to insert "a committee" in place of "the Secretary," it passed in the negative. And the motion being amended, was adopted as follows:

*Ordered*, That the Secretary of the Senate lay before the PRESIDENT OF THE UNITED STATES a copy of the journal of the 8th instant, relative to the opening and counting the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and the declaration of the PRESIDENT of the Senate consequent thereon; and, also a copy of the notification given by the PRESIDENT elect of the time, place, and manner of qualifying to execute the duties of his office.

A message from the House of Representatives informed the Senate that they agree to the report of the joint committee appointed by the two Houses to confer on a proper mode of notifying the VICE PRESIDENT elect of his election.

Mr. SEDGWICK, from the committee of conference above mentioned, reported that the following resolution should be adopted by the House of Representatives:

"*Resolved*, That the notification of the election of the Vice President elect be made by such person and in such manner as the Senate may direct."

On motion, that it be

"*Resolved*, That the President of the United States be requested to communicate (in such manner as he shall judge most proper) to the person elected Vice President of the United States, for the term of four years, to commence 4th day of March next, information of his said election:"

It passed in the negative.

*Ordered*, That the resolution this day agreed to by the House of Representatives, relative to the notification of the election of the VICE PRESIDENT elect, be referred to Messrs. MASON, HILLHOUSE, and SEDGWICK, to consider and report thereon to the Senate.

Mr. MASON reported, from the committee last appointed; and, the report being read, was amended and adopted as follows:

*Resolved*, That the PRESIDENT OF THE UNITED STATES be requested to cause to be transmitted to THOMAS JEFFERSON, Esq., of Virginia, VICE PRESIDENT elect of the United States, notification of his election to that office; and that the PRESIDENT of the Senate do make out and sign a certificate in the words following:

Be it known, that the Senate and House of Representatives of the United States of America, being convened in the city of Philadelphia, on the second Wednesday in February, in the year of our Lord one thousand seven hundred and ninety-seven, the underwritten Vice President of the United States and President of the Senate did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the Electors for a President and for a Vice President; by which it appears that THOMAS JEFFERSON, Esquire, was duly elected, agreeably to the constitution, Vice President of the United States of America.

"In witness whereof, I have hereunto set my hand and seal, this 10th day of February, 1797."

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

### **MONDAY, February 13.**

On request, the VICE PRESIDENT was excused from further attendance in the Senate after Wednesday next.

### **WEDNESDAY, February 15.**

*Withdrawal of the Vice-President, (now President elect of the United States,) and his Valedictory to the Senate.*

After the consideration of the Executive business, a motion was made that the Senate now adjourn; when the VICE-PRESIDENT addressed them as follows:

*Gentlemen of the Senate:*

If, in the general apprehension of an intention to retire in that most eminent citizen, to whom all eyes had been directed, and all hearts attracted, as the centre of our Union, for so long a period, the public opinion had exhibited any clear indication of another, in whom our fellow-citizens could have generally united, as soon as I read that excellent Address, which announced the necessity of deliberation in the choice of a President, I should have imitated the example of a character with which I have co-operated, though in less conspicuous and important stations, and maintained an uninterrupted friendship for two and twenty years. But, as a number of characters appeared to stand in the general estimation so nearly on a level, as to render it difficult to conjecture on which the majority would fall; considering the relation in which I stood to the people of America, I thought it most respectful to them, and most conducive to the tranquillity of the public mind, to resign myself, with others, a silent spectator of the general

deliberation, and a passive subject of public discussions.

Deeply penetrated with gratitude to my countrymen in general, for their long continued kindness to me, and for that steady and affecting confidence, with which those who have most intimately known me, from early life, have, on so many great occasions, intrusted to me the care of their dearest interests; since a majority of their Electors, though a very small one, have declared in my favor, and since, in a Republican Government, the majority, though ever so small, must of necessity decide, I have determined, at every hazard of a high but just responsibility, though with much anxiety and diffidence, once more to engage in their service. Their confidence, which has been the chief consolation of my life, is too precious and sacred a deposit ever to be considered lightly; as it has been founded only on the qualities of the heart, it never has been, it never can be, deceived, betrayed, or forfeited by me.

It is with reluctance, and with all those emotions of gratitude and affection, which a long experience of your goodness ought to inspire, that I now retire from my seat in this House, and take my leave of the members of the Senate.

I ought not to declare, for the last time, your adjournment, before I have presented to every Senator present, and to every citizen who has ever been a Senator of the United States, my thanks, for the candor and favor invariably received from them all. It is a recollection of which nothing can ever deprive me, and it will be a source of comfort to me, through the remainder of my life, that as, on the one hand, in a government constituted like ours, I have for eight years held the second situation under the Constitution of the United States, in perfect and uninterrupted harmony with the first, without envy in one, or jealousy in the other; so, on the other hand, I have never had the smallest misunderstanding with any member of the Senate. In all the abstruse questions, difficult conjectures, dangerous emergencies, and animated debates, upon the great interests of our country, which have so often and so deeply impressed all our minds, and interested the strongest feelings of the heart, I have experienced a uniform politeness and respect from every quarter of the House. When questions of no less importance than difficulty have produced a difference of sentiment, (and difference of opinion will always be found in free assemblies of men, and probably the greatest diversities upon the greatest questions,) when the Senators have been equally divided, and my opinion has been demanded according to the constitution, I have constantly found, in that moiety of the Senators from whose judgment I have been obliged to dissent, a disposition to allow me the same freedom of deliberation, and independence of judgment, which they asserted for themselves.

Within these walls, for a course of years, I have been an admiring witness of a succession of information, eloquence, patriotism, and independence, which, as they would have done honor to any Senate in any age, afford a consolatory hope, (if the Legislatures of the States are equally careful in their future selections, which there is no reason to distrust,) that no council more permanent than this, as a branch of the Legislature, will be necessary, to defend the rights, liberties, and properties of the people, and to protect the Constitution of the United States, as well as the constitutions and rights of the individual States, against errors of judgment, irregularities of the passions, or other encroachments of human infirmity, or more reprehensible enterprise, in the Executive on one hand, or the more immediate representatives of the people on the other.

These considerations will all conspire to animate me in my future course, with a confident reliance, that as far as my conduct shall be uniformly measured by the Constitution of the United States, and faithfully directed to the public good, I shall be supported by the Senate, as well as by the House of Representatives, and the people at large; and on no other conditions ought any support at all to be expected or desired.

With cordial wishes for your honor, health, and happiness, and fervent prayers for a continuation of the virtues, liberties, prosperity, and peace, of our beloved country, I avail myself of your leave of absence for the remainder of the session.

#### **THURSDAY, February 16.**

The VICE-PRESIDENT being absent, the Senate proceeded to the choice of a PRESIDENT *pro tempore*, [Pg 9] as the constitution provides, and the honorable WILLIAM BINGHAM was duly elected.

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and notify him of the election of the Honorable WILLIAM BINGHAM, to be PRESIDENT of the Senate *pro tempore*.

*Ordered*, That the Secretary notify the House of Representatives of this election.

On motion,

*Ordered*, That Messrs. SEDGWICK, BURR, and TRACY, be a committee to prepare and report the draft of an answer to the Address delivered yesterday to the Senate, by the VICE PRESIDENT of the United States.

## TUESDAY, February 21.

The bill to accommodate the PRESIDENT was read the third time; and, being further amended, On motion that it be *Resolved*, That this bill pass, it was decided in the affirmative—yeas 28, nays 3, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Blount, Bradford, Brown, Foster, Goodhue, Gunn, Henry, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Marshall, Martin, Pain, Read, Ross, Rutherford, Sedgwick, Stockton, Tattnell, Tazewell, Tichenor, Tracy, and Vining.

NAYS.—Messrs. Cocke, Hunter, and Mason.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be, "An act to accommodate the PRESIDENT."

Mr. SEDGWICK reported from the committee appointed for the purpose, the draft of an answer to the Address of the VICE PRESIDENT of the United States, on his retiring from the Senate; which was read.

On motion, that it be printed for the use of the Senate, it was disagreed to.

*Ordered*, That the report lie for consideration.

## WEDNESDAY, February 22.

The Senate took into consideration the report of the committee, in answer to the Address of the VICE PRESIDENT of the United States, on his retiring from the Senate.

On motion to recommit the report, it passed in the negative: and the report being amended, was adopted, as follows:

SIR: The Senate of the United States would be unjust to their own feelings, and deficient in the performance of a duty their relation to the Government of their country imposes, should they fail to express their regard for your person, and their respect for your character, in answer to the Address you presented to them, on your leaving a station which you have so long and so honorably filled as their President.

The motives you have been pleased to disclose which induced you not to withdraw from the public service, at a time when your experience, talents, and virtues, were peculiarly desirable, are as honorable for yourself, as, from our confidence in you, sir, we trust the result will be beneficial to our beloved country.

When you retired from your dignified seat in this House, and took your leave of the members of the Senate, we felt all those emotions of gratitude and affection, which our knowledge and experience of your abilities and undeviating impartiality ought to inspire; and we should, with painful reluctance, endure the separation, but for the consoling reflection, that the same qualities which have rendered you useful, as the President of this branch of the Legislature, will enable you to be still more so, in the exalted station to which you have been called.

From you, sir, in whom your country have for a long period placed a steady confidence, which has never been betrayed or forfeited, and to whom they have on so many occasions intrusted the care of their dearest interests, which have never been abused; from you, who, holding the second situation under the Constitution of the United States, have lived in uninterrupted harmony with him who has held the first; from you we receive, with much satisfaction, the declaration which you are pleased to make of the opinion you entertain of the character of the present Senators, and of that of those citizens who have been heretofore Senators. This declaration, were other motives wanting, would afford them an incentive to a virtuous perseverance in the line of conduct which has been honored with your approbation.

In your future course, we entertain no doubt that your official conduct will be measured by the constitution, and directed to the public good; you have, therefore, a right to entertain a confident reliance, that you will be supported, as well by the people at large as by their constituted authorities.

We cordially reciprocate the wishes which you express for our honor, health, and happiness; we join with yours our fervent prayers for the continuation of the virtues and liberties of our fellow-citizens, for the public prosperity and peace; and for you we implore the best reward of virtuous deeds—the grateful approbation of your constituents, and the smiles of Heaven.

WILLIAM BINGHAM,  
*President of the Senate pro tempore.*

*Ordered*, That the committee who drafted the Address wait on the VICE PRESIDENT, with the Answer of the Senate.

## THURSDAY, February 23.

Mr. SEDGWICK reported, from the committee, that, agreeably to order, they had waited on the VICE PRESIDENT OF THE UNITED STATES, with the answer to his Address, on retiring from the Senate—to which the VICE PRESIDENT was pleased to make the following Reply:

An Address so respectful and affectionate as this, from gentlemen of such experience and established character in public affairs, high stations in the Government of their country, and great consideration, in their several States, as Senators of the United States, will do me great honor, and afford me a firm support, wherever it shall be known, both at home and abroad. Their generous approbation of my conduct, in general, and liberal testimony to the undeviating impartiality of it, in my peculiar relation to their body, a character which, in every scene and employment of life, I should wish above all others to cultivate and merit, has a tendency to soften asperities, and conciliate animosities, wherever such may unhappily exist; an effect at all times to be desired, and in the present situation of our country, ardently to be promoted by all good citizens.

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I pray the Senate to accept my sincere thanks.

JOHN ADAMS.

**WEDNESDAY, March 1.**

***Executive Veto on the Army Bill.***

The PRESIDENT OF THE UNITED STATES having stated his objections to the bill, entitled "An act to alter and amend an act, entitled 'an act to ascertain and fix the Military Establishment of the United States,'" the House of Representatives proceeded to consider the objections to the said bill, and have resolved that it do not pass.

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**SPECIAL SESSION**

**SATURDAY, March 4.**

***Installation of Thomas Jefferson as Vice President of the United States and President of the Senate, and inauguration of John Adams as President of the United States.***

*To the Vice President and Senators of the United States respectively:*

SIR: It appearing to be proper that the Senate of the United States should be convened on Saturday, the fourth of March instant, you are desired to attend in the Chamber of the Senate, on that day at ten o'clock in the forenoon, to receive any communications which the President of the United States may then lay before you touching their interests.

G. WASHINGTON.

March 1, 1797.

In conformity with the summons from the PRESIDENT OF THE UNITED STATES, above recited, the Senate accordingly assembled in their Chamber.

PRESENT:

THOMAS JEFFERSON, Vice President of the United States and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

THEODORE SEDGWICK and BENJAMIN GOODHUE, from Massachusetts.

THEODORE FOSTER, from Rhode Island.

JAMES HILLHOUSE and URIAH TRACY, from Connecticut.

ELIJAH PAYNE and ISAAC TICHENOR, from Vermont.

JOHN LAURANCE, from New York.

RICHARD STOCKTON, from New Jersey.

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania.

JOHN VINING and HENRY LATIMER, from Delaware.

JOHN HENRY and JOHN E. HOWARD, from Maryland.

HENRY TAZEWELL and STEVENS T. MASON, from Virginia.

JOHN BROWN and HUMPHREY MARSHALL, from Kentucky.

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina.

WILLIAM BLOUNT, from Tennessee.

JACOB READ, from South Carolina.

JAMES GUNN and JOSIAH TATTNALL, from Georgia.

Mr. BINGHAM administered the oath of office to the VICE PRESIDENT, who took the chair, and the credentials of the following members were read.

Of Mr. FOSTER, Mr. GOODHUE, Mr. HILLHOUSE, Mr. HOWARD, Mr. LATIMER, Mr. MASON, Mr. ROSS, and Mr. TICHENOR.

And the oath of office being severally administered to them by the VICE PRESIDENT, they took their seats in the Senate.

The VICE PRESIDENT then addressed the Senate as follows:

*Gentlemen of the Senate:*

Entering on the duties of the office to which I am called, I feel it incumbent on me to apologize to this honorable House for the insufficient manner in which I fear they may be discharged. At an earlier period of my life, and through some considerable portion of it, I have been a member of Legislative bodies, and not altogether inattentive to the forms of their proceedings; but much time has elapsed since that; other duties have occupied my mind, and, in a great degree, it has lost its familiarity with this subject. I fear that the House will have but too frequent occasion to perceive the truth of this acknowledgment. If a diligent attention, however, will enable me to fulfil the functions now assigned me, I may promise that diligence and attention shall be sedulously employed. For one portion of my duty, I shall engage with more confidence, because it will depend on my will and not my capacity. The rules which are to govern the proceedings of this House, so far as they shall depend on me for their application, shall be applied with the most rigorous and inflexible impartiality, regarding neither persons, their views, nor principles, and seeing only the abstract proposition subject to my decision. If, in forming that decision, I concur with some and differ from others, as must of necessity happen, I shall rely on the liberality and candor of those from whom I differ, to believe, that I do it on pure motives.

I might here proceed, and with the greatest truth, to declare my zealous attachment to the Constitution of the United States, that I consider the union of these States as the first of blessings and as the first of duties the preservation of that constitution which secures it; but I suppose these declarations not pertinent to the occasion of entering into an office whose primary business is merely to preside over the forms of this House, and no one more sincerely prays that no accident may call me to the higher and more important functions which the constitution eventually devolves on this office. These have been justly confided to the eminent character which has preceded me here, whose talents and integrity have been known and revered by me through a long course of years, have been the foundation of a cordial and uninterrupted friendship between us, and I devoutly pray he may be long preserved for the government, the happiness, and prosperity, of our common country.<sup>[1]</sup>

On motion, it was agreed to repair to the Chamber of the House of Representatives to attend the administration of the oath of office to JOHN ADAMS, President of the United States; which the Senate accordingly did; and, being seated, the PRESIDENT OF THE UNITED STATES (attended by the Heads of Departments, the Marshal of the District and his officers) came into the Chamber of the House of Representatives and took his seat in the chair usually occupied by the SPEAKER. The VICE PRESIDENT and Secretary of the Senate were seated in advance, inclining to the right of the PRESIDENT, the late SPEAKER of the House of Representatives and Clerk on the left, and the Justices of the Supreme Court were seated round a table in front of the PRESIDENT OF THE UNITED STATES. The late PRESIDENT OF THE UNITED STATES, the great and good WASHINGTON,<sup>[2]</sup> took a seat, as a private citizen, a little in front of the seats assigned for the Senate, which were on the south side of the House, the foreign Ministers and members of the House of Representatives took their usual seats—a great concourse of both sexes being present. After a short pause, the PRESIDENT OF THE UNITED STATES arose, and communicated the following Address:

"When it was first perceived, in early times, that no middle course for America remained, between unlimited submission to a foreign Legislature, and a total independence of its claims, men of reflection were less apprehensive of danger, from the formidable power of fleets and armies they must determine to resist, than from those contests and dissensions, which would certainly arise concerning the forms of government to be instituted over the whole and over the parts of this extensive country. Relying, however, on the purity of their intentions, the justice of their cause, and the integrity and intelligence of the people, under an overruling Providence, which had so signally protected this country from the first, the Representatives of this nation, then consisting of little more than half its present number, not only broke to pieces the chains which were forging, and the rod of iron that was lifted up, but frankly cut asunder the ties which had bound them, and launched into an ocean of uncertainty.

"The zeal and ardor of the people, during the Revolutionary war, supplying the place of government, commanded a degree of order, sufficient at least for the preservation of society. The Confederation, which was early felt to be necessary, was prepared from the models of the Batavian and Helvetic Confederacies, the



only examples which remain, with any detail and precision, in history, and certainly the only ones which the people at large had ever considered. But, reflecting on the striking difference, in many particulars, between this country and those where a courier may go from the seat of Government to the frontier in a single day, it was then certainly foreseen by some who assisted in Congress at the formation of it, that it could not be durable.

"Negligence of its regulations, inattention to its recommendations, if not disobedience to its authority, not only in individuals but in States, soon appeared, with their melancholy consequences: universal languor; jealousies and rivalries of States; decline of navigation and commerce; discouragement of necessary manufactures; universal fall in the value of lands and their produce; contempt of public and private faith; loss of consideration and credit with foreign nations; and, at length, in discontents, animosities, combinations, partial conventions, and insurrection, threatening some great national calamity.

"In this dangerous crisis, the people of America were not abandoned by their usual good sense, presence of mind, resolution, or integrity. Measures were pursued to concert a plan, 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. The public disquisitions, discussions, and deliberations, issued in the present happy constitution of Government.

"Employed in the service of my country abroad, during the whole course of these transactions, I first saw the Constitution of the United States in a foreign country. Irritated by no literary altercation, animated by no public debate, heated by no party animosity, I read it with great satisfaction, as a result of good heads, prompted by good hearts; as an experiment, better adapted to the genius, character, situation, and relations, of this nation and country, than any which had ever been proposed or suggested. In its general principles and great outlines, it was conformable to such a system of government as I had ever most esteemed, and in some States, my own native State in particular, had contributed to establish. Claiming a right of suffrage, in common with my fellow-citizens, in the adoption or rejection of a constitution which was to rule me and my posterity, as well as them and theirs, I did not hesitate to express my approbation of it, on all occasions, in public and in private. It was not then, nor has been since, any objection to it, in my mind, that the Executive and Senate were not more permanent. Nor have I ever entertained a thought of promoting any alteration in it, but such as the people themselves, in the course of their experience, should see and feel to be necessary or expedient, and by their Representatives in Congress and the State Legislatures, according to the constitution itself, adopt and ordain.

"Returning to the bosom of my country, after a painful separation from it, for ten years, I had the honor to be elected to a station under the new order of things, and I have repeatedly laid myself under the most serious obligations to support the constitution. The operation of it has equalled the most sanguine expectations of its friends, and from an habitual attention to it, satisfaction in its administration and delight in its effects upon the peace, order, prosperity, and happiness of the nation, I have acquired an habitual attachment to it, and veneration for it.

"What other form of government, indeed, can so well deserve our esteem and love?

"There may be little solidity in an ancient idea that congregations of men into cities and nations are the most pleasing objects in the sight of superior intelligences: but this is very certain, that, to a benevolent human mind, there can be no spectacle presented by any nation more pleasing, more noble, majestic, or august, than an assembly like that which has so often been seen in this and the other chamber of Congress, of a Government, in which the Executive authority, as well as that of all the branches of the Legislature, are exercised by citizens selected, at regular periods, by their neighbors, to make and execute laws for the general good. Can any thing essential, any thing more than mere ornament and decoration, be added to this by robes and diamonds? Can authority be more amiable and respectable, when it descends from accidents, or institutions established in remote antiquity, than when it springs fresh from the hearts and judgments of an honest and enlightened people? For, it is the people only that are represented: it is their power and majesty that are reflected, and only for their good, in every legitimate Government, under whatever form it may appear. The existence of such a Government as ours, for any length of time, is a full proof of a general dissemination of knowledge and virtue throughout the whole body of the people. And what object or consideration more pleasing than this can be presented to the human mind? If national pride is ever justifiable or excusable, it is when it springs, not from power or riches, grandeur or glory, but from conviction of national innocence, information, and benevolence.

"In the midst of these pleasing ideas, we should be unfaithful to ourselves, if we should ever lose sight of the danger to our liberties, if any thing partial or extraneous should infect the purity of our free, fair, virtuous, and independent elections. If an election is to be determined by a majority of a single vote, and that can be procured by a party, through artifice or corruption, the Government may be

the choice of a party, for its own ends, not of the nation for the national good. If that solitary suffrage can be obtained by foreign nations, by flattery or menaces, by fraud or violence by terror, intrigue, or venality, the Government may not be the choice of the American people, but of foreign nations. It may be foreign nations who govern us, and not we the people who govern ourselves. And candid men will acknowledge, that, in such cases, choice would have little advantage to boast of, over lot or chance.

"Such is the amiable and interesting system of Government (and such are some of the abuses to which it may be exposed) which the people of America have exhibited to the admiration and anxiety of the wise and virtuous of all nations, for eight years, under the administration of a citizen, who, by a long course of great actions, regulated by prudence, justice, temperance, and fortitude, conducting a people, inspired with the same virtues, and animated with the same ardent patriotism and love of liberty, to independence and peace, to increasing wealth and unexampled prosperity, has merited the gratitude of his fellow-citizens, commanded the highest praises of foreign nations, and secured immortal glory with posterity.

"In that retirement which is his voluntary choice, may he long live to enjoy the delicious recollection of his services, the gratitude of mankind, the happy fruits of them to himself and the world, which are daily increasing, and that splendid prospect of the future fortunes of this country, which is opening from year to year. His name may be still a rampart, and the knowledge that he still lives a bulwark, against all open or secret enemies of his country's peace. His example has been recommended to the imitation of his successors, by both Houses of Congress, and by the voice of the Legislatures and the people throughout the nation.

"On this subject it might become me better to be silent, or to speak with diffidence; but as something may be expected, the occasion, I hope, will be admitted as an apology, if I venture to say, that if a preference upon principle, of a free Republican Government, formed upon long and serious reflection, after a diligent and impartial inquiry after truth; if an attachment to the Constitution of the United States, and a conscientious determination to support it, until it shall be altered by the judgments and wishes of the people, expressed in the mode prescribed in it; if a respectful attention to the constitutions of the individual States, and a constant caution and delicacy towards the State Government; if an equal and impartial regard to the rights, interest, honor, and happiness, of all the States in the Union, without preference or regard to a Northern or Southern, an Eastern or Western position, their various political opinions on unessential points, or their personal attachments; if a love of virtuous men of all parties and denominations; if a love of science and letters, and a wish to patronize every rational effort to encourage schools, colleges, universities, academies, and every institution for propagating knowledge, virtue, and religion, among all classes of the people, not only for their benign influence on the happiness of life in all its stages and classes, and of society in all its forms, but as the only means of preserving our constitution from its natural enemies, the spirit of sophistry, the spirit of party, the spirit of intrigue, the profligacy of corruption, and the pestilence of foreign influence, which is the angel of destruction to elective governments; if a love of equal laws, of justice, and humanity, in the interior administration; if an inclination to improve agriculture, commerce, and manufactures, for necessity, convenience, and defence; if a spirit of equity and humanity towards the aboriginal nations of America, and a disposition to meliorate their condition, by inclining them to be more friendly to us, and our citizens to be more friendly to them; if an inflexible determination to maintain peace and inviolable faith with all nations, and that system of neutrality and impartiality among the belligerent powers of Europe, which has been adopted by this Government, and so solemnly sanctioned by both Houses of Congress, and applauded by the Legislatures of the States and the public opinion, until it shall be otherwise ordained by Congress; if a personal esteem for the French nation, formed in a residence of seven years, chiefly among them, and a sincere desire to preserve the friendship which has been so much for the honor and interest of both nations; if, while the conscious honor and integrity of the people of America, and the internal sentiment of their own power and energies must be preserved, an earnest endeavor to investigate every just cause, and remove every colorable pretence of complaint; if an intention to pursue, by amicable negotiation, a reparation for the injuries that have been committed on the commerce of our fellow-citizens by whatever nation, and, if success cannot be obtained, to lay the facts before the Legislature, that they may consider what further measures the honor and interest of the Government and its constituents demand; if a resolution to do justice, as far as may depend upon me, at all times and to all nations, and maintain peace, friendship, and benevolence, with all the world; if an unshaken confidence in the honor, spirit, and resources of the American people, on which I have so often hazarded my all, and never been deceived; if elevated ideas of the high destinies of this country, and of my own duties towards it, founded on a knowledge of the moral principles and intellectual improvements of the people,

deeply engraven on my mind in early life, and not obscured, but exalted by experience and age; and with humble reverence, I feel it to be my duty to add, if a veneration for the religion of a people who profess and call themselves Christians, and a fixed resolution to consider a decent respect for Christianity among the best recommendations for the public service, can enable me, in any degree, to comply with your wishes, it shall be my strenuous endeavor, that this sagacious injunction of the two Houses shall not be without effect.

"With this great example before me, with the sense and spirit, the faith and honor, the duty and interest, of the same American people, pledged to support the Constitution of the United States, I entertain no doubt of its continuance in all its energy, and my mind is prepared, without hesitation, to lay myself under the most solemn obligations to support it to the utmost of my power.

"And may that Being who is supreme over all, the Patron of Order, the Fountain of Justice, and the Protector, in all ages of the world, of virtuous liberty, continue his blessing upon this nation and its Government, and give it all possible success and duration, consistent with the ends of His Providence."

The oath of office was then administered to him by the Chief Justice of the Supreme Court of the United States, the Associate Justices attending. After which, the PRESIDENT OF THE UNITED STATES retired, and the Senate repaired to their own Chamber.

On motion,

*Ordered*, That Messrs. LANGDON and SEDGWICK be a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him that the Senate is assembled, and ready to adjourn unless he may have any communications to make to them.

Mr. LANGDON reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, who replied, that he had no communication to make to the Senate, except his good wishes for their health and prosperity, and a happy meeting with their families and friends.

The Senate then adjourned without day.

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## FOURTH CONGRESS.—SECOND SESSION.

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### PROCEEDINGS AND DEBATES

IN

### THE HOUSE OF REPRESENTATIVES.

MONDAY, December 5, 1796.

This being the day appointed by the constitution for the annual meeting of Congress, in the House of Representatives, the following named members appeared and took their seats, viz:

*From New Hampshire.*—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHERBURNE, and JEREMIAH SMITH.

*From Massachusetts.*—FISHER AMES, THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, Jr., SAMUEL LYMAN, WILLIAM LYMAN, JOHN READ, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

*From Rhode Island.*—FRANCIS MALBONE.

*From Connecticut.*—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, NATHANIEL SMITH, and ZEPHANIAH SWIFT.

*From New York.*—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLENN, JONATHAN N. HAVENS, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

*From New Jersey.*—JONATHAN DAYTON, AARON KITCHELL, and ISAAC SMITH.

*From Pennsylvania.*—ALBERT GALLATIN, SAMUEL MACLAY, FREDERICK AUGUSTUS MUHLENBERG, JOHN RICHARDS, SAMUEL SITGREAVES, and JOHN SWANWICK.

*From Delaware.*—JOHN PATTON.

*From Maryland.*—GEORGE DENT, WILLIAM HINDMAN, and RICHARD SPRIGG, Jr.

*From Virginia.*—JOHN CLOPTON, ISAAC COLES, GEORGE JACKSON, JAMES MADISON, ANTHONY NEW, and ROBERT RUTHERFORD.

*From Kentucky.*—CHRISTOPHER GREENUP.

*From North Carolina.*—THOMAS BLOUNT and MATTHEW LOCKE.

*From South Carolina.*—WILLIAM SMITH.

*From Georgia.*—ABRAHAM BALDWIN.

The following new members appeared, produced their credentials, were qualified, and took their

seats, viz:

*From Tennessee.*—ANDREW JACKSON.

*From Maryland.*—WILLIAM CRAIK, in place of JEREMIAH CRABB, resigned.

*From Connecticut.*—JAMES DAVENPORT, in place of JAMES HILLHOUSE, appointed a Senator of the United States.

The SPEAKER laid before the House a letter from the Governor of Pennsylvania, with the return of the election of GEORGE EGE, to serve as a member of the House in place of DANIEL HEISTER, resigned.

A quorum, consisting of a majority of the whole number, being present, it was ordered that the Clerk wait on the Senate, to inform them that this House was ready to proceed to business; but it appeared that the Senate had not been able to form a quorum by one member, and had adjourned.

Mr. WILLIAM SMITH presented a petition from Thomas Lloyd, proposing to take, in short-hand, and publish the Debates of Congress at \$1,000 per session salary. The expense of printing, &c. he estimated at \$540, for which he would furnish the House with five hundred copies of that work; engaging to use every possible precaution, and pay prompt attention.

Mr. S. referred to the unfavorable reception of a proposal of this nature at the last session, and supposed this would not be more successful; however, he moved that it be referred to a committee.

The motion was agreed to, and Mr. W. SMITH, Mr. GALLATIN, and Mr. SWIFT, were appointed to examine the petition, and report thereon to the House.

## **TUESDAY, December 6.**

Several other members, to wit: from Vermont, ISRAEL SMITH; from New Jersey, MARK THOMPSON; from Pennsylvania, RICHARD THOMAS; from Virginia, CARTER B. HARRISON, JOHN HEATH, and ABRAHAM VENABLE; and from North Carolina, JESSE FRANKLIN, WILLIAM BARRY GROVE, JAMES HOLLAND, and NATHANIEL MACON, appeared, and took their seats in the House.

The SPEAKER observed, that, as there were several returns of new elections of members to serve in this session, it was proper that, pursuant to a rule of the House, a Committee of Elections be appointed.

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A committee was accordingly appointed, of Mr. VENABLE, Mr. SWIFT, Mr. DENT, Mr. DEARBORN, Mr. BLOUNT, Mr. MUHLENBERG, and Mr. A. FOSTER.

Mr. MACON moved that a Committee of Revisal and Unfinished Business of last session be appointed, pursuant to the Standing Rules and Orders of the House, observing that, as the session would be but short, it would be necessary to be early in the appointment of committees.

Whereon Mr. GILMAN, Mr. R. SPRIGG, Jr., and Mr. MACON were appointed.

Notice was received that a quorum of the Senate was formed.

On motion, it was, therefore, resolved, that a committee of three members be appointed to wait on the PRESIDENT OF THE UNITED STATES, in conjunction with a committee from the Senate, to inform him that a quorum of both Houses was assembled, and ready to receive any communications that he may please to make. Mr. AMES, Mr. MADISON, and Mr. SITGREAVES, were accordingly appointed.

A message was received from the Senate informing the House that they had formed a quorum: whereupon the Clerk went to the Senate with the resolution of this House. The Secretary soon after returned, informing the House that the Senate had concurred in the resolution, and formed a committee for that purpose.

Mr. AMES, from the committee appointed for that purpose, reported that the committee had waited on the PRESIDENT, who was pleased to signify to them that he would make a communication to both Houses of Congress to-morrow, at 12 o'clock, in the Representatives' Chamber.

## **WEDNESDAY, December 7.**

Another member, to wit, SAMUEL SEWALL, from Massachusetts, in place of BENJAMIN GOODHUE, appointed a Senator of the United States, appeared, produced his credentials, was qualified, and took his seat.

A message was sent to the Senate, informing them that this House was ready, agreeably to appointment, to receive communications from the PRESIDENT; whereon the Senate attended, and took their seats. At 12 o'clock the PRESIDENT attended, and, after taking his seat, rose and delivered the following Address:

*Gentlemen of the Senate, and of the House of Representatives:*

In recurring to the internal situation of our country, since I had last the pleasure to address you, I find ample reason for a renewed expression of that gratitude to the Ruler of the Universe, which a continued series of prosperity, has so often and so justly called forth.

To an active external commerce, the protection of a Naval force is indispensable: this is manifest with regard to wars in which a State is itself a party. But besides this, it is in our own experience, that the most sincere neutrality is not a sufficient

guard against the depredations of nations at war. To secure respect to a neutral flag, requires a Naval force, organized and ready to vindicate it from insult or aggression. This may even prevent the necessity of going to war, by discouraging belligerent powers from committing such violations of the rights of the neutral party as may, first or last, leave no other option. From the best information I have been able to obtain, it would seem as if our trade to the Mediterranean, without a protecting force, will always be insecure, and our citizens exposed to the calamities from which numbers of them have but just been relieved.

These considerations invite the United States to look to the means, and to set about the gradual creation of a Navy. The increasing progress of their navigation promises them, at no distant period, the requisite supply of seamen; and their means in other respects favor the undertaking. It is an encouragement likewise that their particular situation will give weight and influence to a moderate Naval force in their hands. Will it not, then, be advisable to begin, without delay, to provide and lay up the materials for the building and equipping of ships of war, and to proceed in the work by degrees, in proportion as our resources shall render it practicable without inconvenience; so that a future war of Europe may not find our commerce in the same unprotected state in which it was found by the present?

Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to ensure a continuance of their efforts in every way which shall appear eligible. As a general rule, manufactures on public account are inexpedient. But where the state of things in a country leaves but little hope that certain branches of manufacture will for a great length of time obtain, when these are of a nature essential to the furnishing and equipping of the public force in time of war; are not establishments for procuring them on public account, *to the extent of the ordinary demand for the public service*, recommended by strong considerations of national policy, as an exception to the general rule? Ought our country to remain in such cases dependent on foreign supply, precarious, because liable to be interrupted? If the necessary articles should in this mode cost more in time of peace, will not the security and independence thence arising form an ample compensation? Establishments of this sort, commensurate only with the calls of the public service in time of peace, will, in time of war, easily be extended in proportion to the exigencies of the Government, and may even, perhaps, be made to yield a surplus for the supply of our citizens at large, so as to mitigate the privations from the interruption of their trade. If adopted, the plan ought to exclude all those branches which are already, or likely soon to be established in the country, in order that there may be no danger of interference with pursuits of individual industry.

It will not be doubted that with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population, and other circumstances of maturity, this truth becomes more apparent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse; and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end, none have been attended with greater success than the establishment of Boards, composed of proper characters, charged with collecting and diffusing information, and enabled by premiums, and small pecuniary aids, to encourage and assist a spirit of discovery and improvement. This species of establishment contributes doubly to the increase of improvement, by stimulating to enterprise and experiment, and by drawing to a common centre the results every where of individual skill and observation, and spreading them thence over the whole nation. Experience accordingly has shown that they are very cheap instruments of immense national benefits.

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I have heretofore proposed to the consideration of Congress the expediency of establishing a National University, and also a Military Academy. The desirableness of both these institutions has so constantly increased with every new view I have taken of the subject, that I cannot omit the opportunity of once for all recalling your attention to them.

The Assembly to which I address myself is too enlightened not to be fully sensible how much a flourishing state of the arts and sciences contributes to national prosperity and reputation. True it is that our country, much to its honor, contains many seminaries of learning highly respectable and useful; but the funds upon which they rest are too narrow to command the ablest professors in the different departments of liberal knowledge for the institution contemplated, though they would be excellent auxiliaries.

Amongst the motives to such an institution the assimilation of the principles, opinions, and manners of our countrymen, by the common education of a portion of our youth from every quarter, well deserves attention. The more homogeneous our citizens can be made in these particulars, the greater will be our prospect of permanent union; and a primary object of such a national institution should be the education of our youth in the science of Government. In a Republic, what species of knowledge can be equally important? and what duty more pressing on its

Legislature, than to patronize a plan for communicating it to those who are to be the future guardians of the liberties of the country?

The institution of a Military Academy is also recommended by cogent reasons. However pacific the general policy of a nation may be, it ought never to be without an adequate stock of military knowledge for emergencies. The first would impair the energy of its character, and both would hazard its safety, or expose it to greater evils when war could not be avoided: besides, that war might often not depend upon its own choice. In proportion as the observance of pacific maxims might exempt a nation from the necessity of practising the rules of the military art, ought to be its care in preserving and transmitting by proper establishments the knowledge of that art. Whatever argument may be drawn from particular examples, superficially viewed, a thorough examination of the subject will evince that the art of war is at once comprehensive and complicated; that it demands much previous study; and that the possession of it, in its most improved and perfect state, is always of great moment to the security of a nation. This, therefore, ought to be a serious care of every Government; and for this purpose an Academy, where a regular course of instruction is given, is an obvious expedient, which different nations have successfully employed.

The compensations to the officers of the United States in various instances, and in none more than in respect to the most important stations, appear to call for Legislative revision. The consequences of a defective provision are of serious import to the Government.

If private wealth is to supply the defect of public retribution, it will greatly contract the sphere within which the selection of character for office is to be made, and will proportionally diminish the probability of a choice of men, able, as well as upright. Besides, that it would be repugnant to the vital principles of our Government virtually to exclude from public trusts, talents, and virtue, unless accompanied by wealth.

While in our external relations some serious inconveniences and embarrassments have been overcome, and others lessened, it is with much pain and deep regret I mention that circumstances of a very unwelcome nature have lately occurred. Our trade has suffered, and is suffering, extensive injuries in the West Indies, from the cruisers and agents of the French Republic; and communications have been received from its Minister here which indicate the danger of a further disturbance of our commerce, by its authority, and which are, in other respects, far from agreeable.

It has been my constant, sincere, and ardent wish, in conformity with that of our nation, to maintain cordial harmony and a perfectly friendly understanding with that Republic. This wish remains unabated; and I shall persevere in the endeavor to fulfil it to the utmost extent of what shall be consistent with a just and indispensable regard to the rights and honor of our country; nor will I easily cease to cherish the expectation that a spirit of justice, candor, and friendship on the part of the Republic will eventually ensure success.

My solicitude to see the Militia of the United States placed on an efficient establishment has been so often and so ardently expressed that I shall but barely recall the subject to your view on the present occasion; at the same time that I shall submit to your inquiry, whether our harbors are yet sufficiently secured.

The situation in which I now stand, for the last time, in the midst of the Representatives of the people of the United States, naturally recalls the period when the administration of the present form of government commenced; and I cannot omit the occasion to congratulate you and my country on the success of the experiment; nor to repeat my fervent supplications to the Supreme Ruler of the Universe and Sovereign Arbiter of Nations, that His providential care may still be extended to the United States; that the virtue and happiness of the people may be preserved; and that the Government which they have instituted for the protection of their liberties may be perpetual.

G. WASHINGTON.

UNITED STATES, *December 7, 1796.*

When the PRESIDENT had concluded his Address, he presented copies of it to the PRESIDENT of the Senate and the SPEAKER of the House of Representatives. The PRESIDENT and the Senate then withdrew, and the SPEAKER took the Chair. The Address was again read by the Clerk, and on motion, committed to a Committee of the whole House to-morrow.

### **THURSDAY, December 8.**

JAMES GILLESPIE, from North Carolina, appeared, and took his seat in the House.

A new member, to wit, GEORGE EGE, from Pennsylvania, in place of DANIEL HEISTER, resigned, appeared, produced his credentials, was qualified, and took his seat. [Pg 17]

### ***Address to the President.***

On the motion of Mr. W. SMITH, the House went into a Committee of the Whole on the PRESIDENT'S Address, according to the order of the day. The Speech was read by the Clerk.

Mr. D. FOSTER moved the following resolution: |

*"Resolved, That it is the opinion of this committee, that a respectful Address ought to be presented from 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 the session, containing assurances that this House will take into consideration the many important matters recommended to their attention."*

Which was unanimously agreed to, and Mr. AMES, Mr. BALDWIN, Mr. MADISON, Mr. SITGREAVES, and Mr. W. SMITH were appointed a committee to draw up the Address. The committee rose, and the resolution was adopted by the House.

### **FRIDAY, December 9.**

DAVID BARD, from Pennsylvania, JOSIAH PARKER, from Virginia, and NATHAN BRYAN, from North Carolina, appeared and took their seats in the House.

### ***Address to the President.***

The SPEAKER said, that it had been usual for the House to come to some order on the PRESIDENT'S Address, which was to refer it to a Committee of the Whole on the state of the Union. On which Mr. WILLIAMS moved, that it be committed to a Committee of the Whole on the state of the Union, which was done accordingly.

Mr. BAYLEY moved, that a Committee of Commerce and Manufactures be appointed, when Mr. WILLIAM SMITH, Mr. SEWALL, Mr. COIT, Mr. PARKER, Mr. BLOUNT, and Mr. DENT, were named for that committee.

Mr. BAYLEY then moved, that when this House adjourn, it adjourn till Monday at eleven o'clock.

[The reason stated during the last session for the House not meeting to do business on Saturdays was, that the standing committees were numerous, besides many special committees for different purposes, whose business was frequently very important and troublesome, it was therefore necessary that Saturday be allowed for the committees to sit, else business would be much protracted, and become too burdensome on gentlemen in committees.]

### **MONDAY, December 12.**

Several other members, to wit: from New York, EDWARD LIVINGSTON; from Pennsylvania, ANDREW GREGG; from Maryland, GABRIEL CHRISTIE; from Virginia, WILLIAM B. GILES, ANDREW MOORE, and JOHN NICHOLAS; and from South Carolina, ROBERT GOODLOE HARPER, appeared, and took their seats in the House.

### **TUESDAY, December 13.**

Two other members, to wit, THOMAS CLAIBORNE and JOHN PAGE, from Virginia, appeared and took their seats in the House.

A new member, viz: WILLIAM STRUDWICK, from North Carolina, in place of ABSALOM TATOM resigned, appeared, produced his credentials, was qualified, and took his seat.

### ***Address to the President.***

Mr. W. SMITH then moved for the order of the day on the report of the committee in answer to the PRESIDENT'S Address.

Mr. GILES said, that as the printed copy of the answer was but just laid before the House, he hoped the gentleman would not insist on his motion, as he declared he had not had time to read it; he would therefore move that it be deferred till to-morrow.

Mr. PARKER seconded the motion. He said he was not able to judge whether the answer would meet his approbation or not; he wished time to be given for the consideration of it.

Mr. W. SMITH said he knew no instance in which the answer to the PRESIDENT'S Address had been laid over, and he thought it ought to be despatched with all possible speed.

Mr. HEATH said, he hoped his colleague would not insist on his motion for letting it lie over till to-morrow; he thought it could as well be acted on to-day.

Mr. AMES observed, that it would look very awkward to let it lie over till to-morrow, as it was very unusual, if not unprecedented, so to do; he thought gentlemen might make up their minds about it if laid on the table about an hour; they could, in the mean time, despatch other business, which would come before them.

Mr. GILES said, he had experienced extreme inconvenience from gentlemen pressing for a subject before it had been matured in the minds of members; he thought it would be extremely improper

and unusual, and in its consequences disagreeable, to go into the subject before gentlemen had time to reflect on it.

Mr. SITGREAVES said, that the more expeditious the House were on the answer to the PRESIDENT'S Address the greater the effect of it would be. He hoped, therefore, that there would be no delay. He had in recollection a Message which was received from the PRESIDENT respecting the Colors of the French Republic, at the last session. Those very gentlemen who now wished a delay, then thought that, to let the subject lie over, would lose its principal effect, although several of the members wished it to lie over, and but for one day. Surely we have as much respect for the PRESIDENT as we have for the French Republic. He really hoped the business would not lie over.

Mr. W. LYMAN hoped gentlemen did not look upon this answer to the PRESIDENT'S Address as merely complimentary. He declared he took it up in a very different light; he viewed it as of the most extensive consequence; it related to the subjects recommended to the notice of the House by the PRESIDENT, which might relate to the alteration of the laws, and, perhaps, to the forming new laws; and could gentlemen have time to form their minds on such an important part of their business? He had only seen the report this morning, and hoped he should have time to consider it before it passed through the House.

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The SPEAKER said, that the subject before the House now was, whether the unfinished business should be postponed in order to make room for a Committee of the Whole to sit on the report of the committee on the answer?

Mr. PARKER observed, that he could not say whether he approved or disapproved of the answer before the House. He had not read the report; he therefore hoped that the unfinished business would be taken up and this postponed: he thought it was too important to be hastened. He wished gentlemen to be very careful how they committed themselves at a juncture so critical, and on business so momentous. We had just been told by the PRESIDENT that we did not stand well with the French nation; and the Senate, in their answer, had accorded with his observations on that subject. [Mr. P. was here informed that the business of the Senate ought not to be introduced here.<sup>[3]</sup>] He therefore hoped a day might be allowed to take the subject into consideration.

Mr. WILLIAMS said, he had searched and could find no precedent in the journal to encourage a delay of this business. He found that when a report was made by the committee on such an occasion, it was usual to be taken up by a Committee of the whole House; and if gentlemen disagreed on the subject, it should be recommitted to the same committee who formed it, to make such alterations whereby it may meet more general approbation, or be amended by the House and passed. He hoped no new precedent would be made.

The SPEAKER again observed, that the question was on postponing the unfinished business to take up this report.

Mr. W. SMITH said, that if this business was delayed, it ought to be for substantial reasons. The principal reason gentlemen had urged was, that they had not had time to acquaint themselves with the answer. How, then, he asked, could they make their observations on it as they had done? The committee had, he thought, drafted it in such general terms that it could not be generally disapproved. There are but two parts in which he thought there would be differences of opinion, viz: that which related to the French Republic, and that which complimented the PRESIDENT for his services. As to the first, he thought it so expressed as to need no delay in the answer. With respect to the latter, he hoped no gentleman would refuse to pay a due regard to the PRESIDENT'S services.

The SPEAKER again informed the House what was the question.

Mr. W. SMITH said, we ought not now to reflect on any thing we may judge has not been done as we could wish. Could we refuse a tribute of respect to a man who had served his country so much? He thought a delay at present would have a very unpleasant appearance. He hoped we should go into this business immediately, agreeably to the former practice of the House on similar occasions. The unfinished business was yesterday postponed for want of proper information, and he thought the same reason was yet in force with respect to it. He hoped nothing would impede this business, lest it should appear like a want of respect in us. He hoped to see a unanimous vote in favor of a respectful answer to the Chief Magistrate, whose services we ought zealously to acknowledge.

Mr. GILBERT saw no reason to depart from a practice which had been usual; he therefore hoped the report might come under consideration to-day. He thought if it laid on the table an hour or an hour and a half, gentlemen could then be prepared to consider it.

The SPEAKER again put the House in mind of the question.

Mr. NICHOLAS said, if the business was pressed too precipitately, gentlemen may be sensible of their error when it was too late. Many bad consequences might attend hastening the subject before it was well matured. He could see no reason why the business should be precipitated upon the House—a proper delay would not show any want of respect to the PRESIDENT, as some gentlemen think. Would it be more respectful that an answer should be sent by this House, which, for want of time, had not been sufficiently considered? Certainly not. Far more so will it appear that after mature deliberation the members are unanimous in their answer. I therefore think the object of respect which the gentleman from North Carolina has in view will be completely answered by the delay.

Gentlemen talk about precedent. I am ashamed to hear them. There may be no precedent on the subject. But are we always to act by precedent? There is scarcely a circumstance occurs in this



House but what is different from any that was before it. The PRESIDENT'S Addresses to this House are always different. They relate to the circumstances of things that are, have been, and may be. Then, to talk of precedents where things cannot be alike, is to trammel men down by rules which would be injurious in the issue.

The Message of the PRESIDENT respecting the French Colors had been referred to. If gentlemen were then wrong, is that a reason why they should continue to act wrong? But this circumstance materially differs from that. That was merely an expression of sentiment, which could at once be determined, but this of sentiment, accompanied with deep and solemn reflection—it is so interwoven with the politics of the country as to require great circumspection. I hope gentlemen will not go into it until they are properly prepared. I wish to pay all possible respect to the Chief Magistrate, and cannot prove it better than by a sincere desire for an unanimous vote to the answer, which is only to be obtained by proper deliberation; and thus let him depart from his office with credit, and the enjoyment of our best wishes in his retirement.

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The question for postponing the unfinished business to take up this report was then put and negatived—43 to 31.

### **WEDNESDAY, December 14.**

THOMAS HENDERSON, from New Jersey, and THOMAS HARTLEY, from Pennsylvania, appeared and took their seats in the House.

#### ***Reporting of the Debates.***

Mr. W. SMITH moved for the order of the day on the petitions of Thomas Lloyd and Thomas Carpenter, whereupon the House resolved itself into a Committee of the Whole, when, having read the report of the committee to whom it was referred,

Mr. MACON wished some gentleman who was in that committee, would be so good as to inform the House what would be the probable expense, and for what reason the House should go into the business. He thought the expense altogether unnecessary, whatever it may be.

If the debates of this House were to be printed, and four or five copies given to each member, they would employ all the mails of the United States. He also adverted to the attempt at the last session to introduce a stenographer into the House, which failed.

Mr. SMITH informed the gentleman that Mr. Lloyd's estimate of the expenses is, that he will supply the House with his reports at the rate of three cents per half sheet. His calculation is that he can supply the members at the expense of about \$1,600 for the session. With respect to the gentleman's reference to last session, this was materially different from that: that motion was to make the person an officer of this House, and at an expense much greater. He thought this attempt would be of great use to the House. Regular and accurate information of the debates in the House would be a very desirable thing; he therefore hoped the resolution would prove agreeable to the House.

Mr. WILLIAMS said, that the House need not go into unnecessary expense: the members were now furnished, morning and evening, with newspapers, which contained the debates; then why should the House wish for more? If one person in particular has the sale of his debates to this House, will it not destroy the advantages any other can derive from it? We ought not to encourage an undertaking of this kind, but let us encourage any gentleman to come here and take down the debates. Last year they were taken down very accurately and dispersed throughout the Union.

By passing this resolution you will destroy the use of the privilege to any other than the person favored by this House. Why give one a privilege more than another? He observed, it had been common to give gentlemen the privilege to come into the House and take down the debates, which had been, last year, delivered time enough to give satisfaction to the members.

Mr. THATCHER said, he should wish for information from the committee how many persons there were to publish debates, as he understood there were several, and the members were to supply themselves from whom they pleased. He should likewise wish for information, how many each member was to have to amount to the value of \$1,600.

Mr. W. SMITH said, there had been petitions received from only two persons—Thomas Lloyd and Thomas Carpenter. They intended, each of them, to publish the debates. There might be others; he knew not. There was no intention of giving any one a preference—gentlemen could subscribe for that they approved of most. At the calculation of Mr. Lloyd the members would have five copies each for the \$1,600.

Mr. W. LYMAN said, the question was, whether the House would incur the expense of \$1,600 to supply the members with copies or not? He thought there was no need of the expense. If the House do not think proper to furnish the members, they can supply themselves. A publication of them is going on at present, and many gentlemen had subscribed to it already.

Mr. DEARBORN did not think that \$1,600 thus laid out would be expended to the best possible advantage. From the number of persons which we see here daily taking down debates, he thought we might expect to see a good report of the occurrences in the House. There was a book going about for subscriptions, which appeared to be well encouraged; he saw many of the members' names in it. He thought that, by a plan like that, the reports may be as accurately taken as we may have any reason to expect if the House incurs this expense.

Mr. NICHOLAS observed, that members were now served with three newspapers. He thought to vote for this resolution on account of obtaining a more full and complete report than was to be had in the newspapers; thus it would supersede the necessity of taking so many papers. He thought this plan more useful to the members, and generally of more advantage to their constituents, as they could disperse those debates where otherwise they would not be seen.

Mr. THATCHER said, if the object of the motion was to supersede the receiving of newspapers, he certainly should vote against it. He did not consider the main reason why members were served with the newspapers was, that they may obtain the debates. No. He thought it more important, in their stations, that they should know the occurrences of the day from the various parts of the United States as well as from foreign nations. Though he might favor an undertaking of this kind, yet he would give preference to a newspaper, if they were to have the one without the other.

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Mr. HEATH did not wish that the members, being furnished with debates agreeably to the motion, should supersede the receiving of newspapers, yet he should vote for it. Gentlemen had said the debates were taken more correctly last session than before, yet he had heard a whisper which was going from North to South, that our debates are not represented impartially. He wished the House and the people to be furnished with a true report; such a thing would be very useful: however, he did not wish to encourage a monopoly to those two persons. No. He would wish to give an equal chance to all who choose to come and take them. Shall we repress truth? I hope not; but disseminate it as much as possible. Last session, when I was, under the act of God's providence, prevented from attending the House, a member sent for a gentleman from Virginia, who was to act as stenographer, with whom the House and a printer in this city were to combine. Warm debates ensued on the propriety of the measure, and the gentleman returned home after the motion was negatived. I hope gentlemen will not grudge 1,600 dollars towards the support of truth. What we see now in the newspapers is taken from the memory, and not by a stenographer. The people will thank you that you have taken means to investigate truth. If any gentleman can point out a better mode to obtain this object, I hope he will do it that it may be adopted; till then I shall support the resolution.

Mr. SHERBURNE did not think, with the gentleman last up, that the interest of the country was concerned; the only thing they were concerned in was the payment of the money. The printing of this work did not depend on the motion of this House. Whether the House adopt it or not, the book will be published. It is a matter of private interest; a speculation in the adventurer, like other publications. The question, he conceived, meant only this: Should the members be supplied with these pamphlets at the expense of the public, or should they put their hands in their own pockets and pay for them individually? He thought the House had no greater reasons to supply the members with this work than other publications; they might as well be furnished with the works of *Peter Porcupine*, or the *Rights of Man*, at the public expense.

Mr. W. SMITH said, the gentleman was mistaken with respect to the work going on, whether supported by the House or not. It was true as it respected the work proposed by Mr. Carpenter; but, with respect to Mr. Lloyd, he declared he could not undertake it, except the House would subscribe for five copies for each member.

Mr. SWANWICK considered the question to be to this effect: whether the debates be under the sanction of the House or not? A gentleman had said, it will be a great service to the public to have a correct statement of the debates. I think the most likely way to obtain it correctly is to let it rest on the footing of private industry. We have a work, entitled *The Senator*, in circulation. I have no doubt but the publisher will find good account in the undertaking. Why should the House trouble itself to sanction any particular work? Gentlemen would then have enough to do every morning in putting the debates to rights before they were published, as they would be pledged to the accuracy of the reports. I never heard that, in the British House of Commons or Lords, such a motion was ever made, nor have I ever heard of such in any other country; then why should we give our sanction and incur a responsibility for the accuracy of it. He said he should vote against the motion, but would encourage such a work while it rested on the footing of private adventure.

Mr. THATCHER said, he differed much from the gentleman last up, as it respected the responsibility of the House on such a publication. He thought it might as well be said, that because there had been a resolution for the Clerk to furnish the members of this House with three newspapers, the House was responsible for the truth of what those newspapers contained; if it was so, he should erase his name from his supply of them, as he thought, in general, they contained more lies than truth. Two considerations might recommend the resolution. It would encourage the undertaking, and also add to the stock of public information: on either of these, he would give it his assent. Soon after he came into the city, a paper was handed him with proposals for a publication of this kind (*The Senator*). He, with pleasure, subscribed to its support; as to general information, that was given already by newspapers, and though each member was to be supplied with five copies, yet very few would fall into hands where the newspapers did not reach. The work would go forward at any rate. If he thought the work depended on the motion, he should rejoice to give his vote toward its aid. On the question being put, only nineteen gentlemen voted in favor of the resolution; it was therefore negatived.

The committee then rose, and the House took up the resolution.

Mr. THATCHER observed, the question was put while he was inattentive: he wished it to lie over till to-morrow.

Mr. GILES wished to indulge the gentleman in his desire.

Mr. THATCHER then moved for the vote of the House, whether the report of the Committee of the

The question was then put, whether the House agreed to the report of the Committee of the Whole and disagreed with the report of the select committee; which appeared in the affirmative. The motion was therefore lost.

### ***Address to the President.***

The House again resolved itself into a Committee of the Whole on the Answer to the PRESIDENT'S Address; when the Answer reported by the select committee was read by the Clerk, and then in paragraphs by the Chairman, which is as follows:

SIR: The House of Representatives have attended to your communication respecting the state of our country, with all the sensibility that the contemplation of the subject and a sense of duty can inspire.

We are gratified by the information that measures calculated to ensure a continuance of the friendship of the Indians, and to maintain the tranquillity of the *interior* frontier, have been adopted; and we indulge the hope that these, by impressing the Indian tribes with more correct conceptions of the justice, as well as power of the United States, will be attended with success.

While we notice, with satisfaction, the steps that you have taken in pursuance of the late treaties with several foreign nations, the liberation of our citizens who were prisoners at Algiers is a subject of peculiar felicitation. We shall cheerfully co-operate in any further measures that shall appear, on consideration, to be requisite.

We have ever concurred with you in the most sincere and uniform disposition to preserve our neutral relations inviolate; and it is, of course, with anxiety and deep regret we hear that any interruption of our harmony with the French Republic has occurred; for we feel with you and with our constituents the cordial and unabated wish to maintain a perfectly friendly understanding with that nation. Your endeavors to fulfil that wish, (*and by all honorable means to preserve peace, and to restore that harmony and affection which have heretofore so happily subsisted between the French Republic and the United States,*) cannot fail, therefore, to interest our attention. And while we participate in the full reliance you have expressed on the patriotism, self-respect, and fortitude of our countrymen, we cherish the pleasing hope that a *mutual* spirit of justice and moderation *on the part of the Republic* will ensure the success of your perseverance.

The various subjects of your communication will, respectively, meet with the attention that is due to their importance.

When we advert to the internal situation of the United States, we deem it equally natural and becoming to compare the tranquil prosperity of the citizens with the period immediately antecedent to the operation of the Government, and to contrast it with the calamities in which the state of war still involves several of the European nations, as the reflections deduced from both tend to justify, as well as to excite, a warmer admiration of our free constitution, and to exalt our minds to a more fervent and grateful sense of piety towards Almighty God for the beneficence of His providence, by which its administration has been hitherto so remarkably distinguished.

And while we entertain a grateful conviction that your wise, firm, and patriotic Administration has been signally conducive to the success of the present form of Government, we cannot forbear to express the deep sensations of regret with which we contemplate your intended retirement from office.

As no other suitable occasion may occur, we cannot suffer the present to pass without attempting to disclose some of the emotions which it cannot fail to awaken.

The gratitude and admiration of your countrymen are still drawn to the recollection of those resplendent virtues and talents which were so eminently instrumental to the achievement of the Revolution, and of which that glorious event will ever be the memorial. Your obedience to the voice of duty and your country, when you quitted reluctantly a second time the retreat you had chosen, and first accepted the Presidency, afforded a new proof of the devotedness of your zeal in its service, and an earnest of the patriotism and success which have characterized your Administration. As the grateful confidence of the citizens in the virtues of their Chief Magistrate has essentially contributed to that success, we persuade ourselves that the millions whom we represent participate with us in the anxious solicitude of the present occasion.

Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind than valuable to a Republic.

Although we are sensible that this event, of itself, completes the lustre of a

character already conspicuously unrivalled by the coincidence of virtue, talents, success, and public estimation, yet we conceive that we owe it to you, sir, and still more emphatically to ourselves and to our nation (of the language of whose hearts we presume to think ourselves at this moment the faithful interpreters) to express the sentiments with which it is contemplated.

The spectacle of a whole nation, the freest and most enlightened in the world, offering by its Representatives the tribute of unfeigned approbation to its first citizen, however novel and interesting it may be, derives all its lustre—a lustre which accident or enthusiasm could not bestow, and which adulation would tarnish—from the transcendent merit of which it is the voluntary testimony.

May you long enjoy that liberty which is so dear to you, and to which your name will ever be so dear. May your own virtues and a nation's prayers obtain the happiest sunshine for the decline of your days and the choicest of future blessings. For your country's sake—for the sake of Republican liberty—it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants.

Mr. VENABLE observed, on a paragraph wherein it speaks of the "tranquillity of the interior frontier," he did not know what was the meaning of the expression: he moved to insert "Western frontier" in its stead.

Mr. AMES observed that the words of the report are in the PRESIDENT'S Speech; however, he thought the amendment a good one. It then passed.

In the fourth paragraph are these words: "Your endeavors to fulfil that wish cannot fail, therefore, to interest our attention." At the word "wish," Mr. GILES proposed to insert these words: "and by all honorable means to preserve peace, and restore that harmony and affection which have heretofore so happily subsisted between the French Republic and this country;" and strike out the words that follow "wish" in that paragraph. He said, his reasons for moving this amendment were to avoid its consequences. He really wished the report entirely recommitted, as there were many objectionable parts in it. He had been very seriously impressed with the consequences that would result from a war with the French Republic. When I reflect, said Mr. G., on the calamities of war in general, I shudder at the thought; but, to conceive of the danger of a French war in particular, it cuts me still closer. When I think what many gentlemen in mercantile situations now feel, and the dreadful stop put to commerce, I feel the most sincere desire to cultivate harmony and good understanding. I see redoubled motives to show the world that we are in favor of a preservation of peace and harmony.

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Mr. W. SMITH said, he should not object to the amendment; but he thought it only an amplification of a sentiment just before expressed. He did not see any advantage in the sentiment as dilated, nor could he see any injury which could accrue from it. He hoped every gentleman in the House wished as sincerely for the preservation of peace as that gentleman did.

Mr. AMES wished to know of the gentleman from Virginia, whether he meant to strike out the latter part of this paragraph; if he did, he would object to it.

Mr. GILES said, he did not mean to strike out any more of this paragraph.

Mr. AMES wished it not to be struck out. By the amendment to strike out, we show the dependence we place on the power and protection of the French. While we declare ourselves weak by the act, we lose the recourse to our own patriotism, and fly, acknowledging an offence never committed, to the French for peace. He hoped the gentleman would be candid upon this occasion.

Mr. GILES said, he only wished this House to express their most sincere and unequivocal desire in favor of peace, and not merely to leave it to the PRESIDENT. He said, he had spoken upon this occasion as he always had done on this floor. He always had, and he hoped always should state his opinions upon every subject with plainness and candor.

The amendment passed unanimously.

Mr. GILES then proposed an amendment to the latter part of the same paragraph which would make it read thus: "We cherish the pleasing hope that a spirit of mutual justice and moderation will ensure the success of your perseverance." The amendment was to insert the word "mutual." He thought we ought to display a spirit of justice and moderation as well as the French. This amendment, he thought, would soften the expression, and, acting with that spirit of justice and moderation, accomplish a reconciliation. The amendment was adopted.

On the Chairman's reading the last paragraph except one in the report, which reads thus: "The spectacle of a whole nation, the *freest and most enlightened in the world*," Mr. PARKER moved to strike out the words in italic. Although, said he, I wish to believe that we are the freest people, and the most enlightened people in the world, it is enough that we think ourselves so; it is not becoming in us to make the declaration to the world; and if we are not so, it is still worse for us to suppose ourselves what we are not.

Mr. HARPER said he had a motion of amendment in his hand which would supersede the necessity of the last made, which, if in order, he would propose: it was to insert words more simple. He thought the more simple, the more agreeable to the public ear. His amendment, he thought, would add to the elegance and conciseness of the expression. He did not disapprove of the Address as it now stood, but he thought it might be amended. This, he said, would add to the

dignity, as well as to the simplicity of the expression. He thought it would be improper to give too much scope to feeling: amplitude of expression frequently weakens an idea.

Mr. GILES said he saw many objectionable parts in the amendments proposed by the gentleman just sat down. He wished to strike out two paragraphs more than Mr. HARPER had proposed; indeed, he wished the whole to be recommitted, that it might be formed more congenial to the wishes of the House in general, and not less agreeable to the person to be addressed.

Mr. SMITH observed, that as the answer had been read by paragraphs nearly to the close, he thought it very much out of order to return to parts so distant.

The Chairman said that no paragraph on which an amendment had been made could be returned to; but where no amendment had been made, it was quite consistent with order to propose any one gentlemen may think proper.

Mr. W. SMITH opposed striking out any paragraph. It was, he said, the last occasion we should have to address that great man, who had done so much service to his country. The warmth of expression in the answer was only an evidence of the gratitude of this House for his character. When we reflect on the glowing language used at the time when he accepted of the office of PRESIDENT, and at his re-election to that office, why, asked he, ought not the language of this House to be as full of respect and gratitude now as then? particularly when we consider the addresses now flowing in from all parts of the country. I object to the manner of gentlemen's amendments as proposed, to strike out all in a mass. If the sentiments were agreeable to the minds of the House, why waste our time to alter mere expressions while the sentiment is preserved? No doubt every gentleman's manner of expression differed, while their general ideas might be the same. He hoped mere form of expression would not cause its recommitment.

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Mr. GILES did not object to a respectful and complimentary Address being sent to the PRESIDENT, yet he thought we ought not to carry our expressions out of the bounds of moderation; he hoped we should adhere to truth. He objected to some of the expressions in those paragraphs, for which reason he moved to have the paragraphs struck out, in order to be amended by the committee. He wished to act as respectful to the PRESIDENT as any gentleman, but he observed many parts of the Address which were objectionable. It is unnatural and unbecoming in us to exult in our superior happiness, light, or wisdom. It is not at all necessary that we should exult in our advantages, and thus reflect on the unhappy situation of nations in their troubles; it is insulting to them. If we are thus happy it is well for us; it is necessary that we should enjoy our happiness, but not boast of it to all the world, and insult their unhappy situation.

As to those parts of the Address which speak of the wisdom and firmness of the PRESIDENT, he must object to them. On reflection, he could see a want of wisdom and firmness in the Administration for the last six years. I may be singular in my ideas, said he, but I believe our Administration has been neither wise nor firm. I believe, sir, a want of wisdom and firmness has brought this country into the present alarming situation. If after such a view of the Administration, I was to come into this House and show the contrary by a quiet acquiescence, gentlemen would think me a very inconsistent character. If we take a view of our foreign relations, we shall see no reason to exult in the wisdom or firmness of our Administration. He thought nothing so much as a want of that wisdom and firmness had brought us to the critical situation in which we now stand.

If it had been the will of gentlemen to have been satisfied with placing the PRESIDENT in the highest possible point of respect amongst men, the vote of the House would have been unanimous, but the proposal of such adulation could never expect success. If we take a view into our internal situation, and behold the ruined state of public and private credit, less now than perhaps at any former period however, he never could recollect it so deranged. If we survey this city, what a shameful scene it alone exhibits, owing, as he supposed, to the immense quantity of paper issued. Surely this could afford no ground for admiration of the Administration that caused it.

I must acknowledge, said Mr. GILES, that I am one of those who do not think so much of the PRESIDENT as some others do. When the PRESIDENT retires from his present station, I wish him to enjoy all possible happiness. I wish him to retire, and that this was the moment of his retirement. He thought the Government of the United States could go on very well without him; and he thought he would enjoy more happiness in his retirement than he possibly could in his present situation. What calamities would attend the United States, and how short the duration of its Independence, if one man alone can be found to fill that capacity! He thought there were thousands of citizens in the United States able to fill that high office, and he doubted not that many may be found whose talents would enable them to fill it with credit and advantage. Although much had been said, and that by many people, about his intended retirement, yet he must acknowledge he felt no uncomfortable sensations about it; he must express his own feelings, he was perfectly easy in prospect of the event. He wished the PRESIDENT as much happiness as any man. He declared he did not regret his retreat; he wished him quietly at his seat at Mount Vernon; he thought he would enjoy more happiness there than in public life. It will be very extraordinary if gentlemen, whose names in the yeas and nays are found in opposition to certain prominent measures of the Administration, should come forward and approve those measures: this we could not expect. He retained an opinion he had always seen reason to support, and no influence under Heaven should prevent him expressing his established sentiments; and he thought the same opinions would soon meet general concurrence. He hoped gentlemen would compliment the PRESIDENT privately, as individuals; at the same time, he hoped such adulation would never pervade that House.

I must make some observation, said Mr. G., on the last paragraph but one, where we call ourselves "the freest and most enlightened nation in the world:" indeed, the whole of that paragraph is objectionable; I disapprove the whole of it. If I am free, if I am happy, if I am enlightened more than others, I wish not to proclaim it on the house top; if we are free, it is not prudent to declare it; if enlightened, it is not our duty in this House to trumpet it to the world; it is no Legislative concern. If gentlemen will examine the paragraph, [referring to that contained in the parenthesis,] it seems to prove that the gentleman who drew it up was going into the field of adulation; which would tarnish a private character. I do think this kind of affection the PRESIDENT gains nothing from. The many long Addresses we hear of, add nothing to the lustre of his character. In the honor we may attempt to give to others we may hurt ourselves. This may prove a self-destroyer; by relying too much on administration, we may rely too little on our own strength.

Mr. SITGREAVES said, that whatever division of the question gentlemen would propose, was indifferent to him; the words of the answer were perfectly congenial with his wishes, and he was prepared to give his opposition to any of the amendments proposed. On mature deliberation, there was not a sentiment in the report but he highly approved. He could not see any thing unnatural or unbecoming in drawing just comparisons of our situation with that of our neighbors; this is the only way we can form a just view of our own happiness. It is a very necessary way to come to a right knowledge of our own situation by comparing it with that of other nations. He would not reproach another people because they are not so happy as we are; but he thought drawing simple comparisons in the way of the report was no reproach. He was not against bringing the comparison down to private life, as the gentleman from Virginia had done; he should think it wrong in a man to exult over his neighbor who was distressed or ignorant, because himself was wealthy or wise. Yet he saw no impropriety in his own family of speaking of their happiness and advantages, compared with that of others; it would awaken in them a grateful sense of their superior enjoyments, while it pointed out the faults and follies of others, only in order that those he had the care of may learn to avoid them: thus while our happiness is pointed out, the miseries of nations involved in distress are delineated to serve as beacons for the United States to steer clear of. He did not, with the gentleman from Virginia, in any degree, doubt of the wisdom or firmness of the Administration of America. In the language of the Address, he entertained a very high opinion of it, "a grateful conviction that the wise, firm, and patriotic Administration of the PRESIDENT had been signally conducive to the success of the present form of Government." Such language as this is the only reward which can be given by a grateful people for labors so eminently useful as those of the PRESIDENT had been. This was not his sentiment merely, it was the sentiment of the people of America. Every public body were conveying their sentiments of gratitude throughout the whole extent of the Union. Why then should this House affect a singularity, when our silence on these points would only convey reproach instead of respect. If these sentiments were true, why not express them? But if, on the contrary, what the gentleman asserted, that the Administration of the PRESIDENT had been neither wise, firm, nor patriotic, then he would concur with the motion for striking out; but he was not convinced of the truth of this assertion; and while this is not proved, he should vote against the motion.

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Mr. SITGREAVES said, he could not agree with the motion of the gentleman from South Carolina, (Mr. HARPER,) because his motion was for substituting other words in the place of those in the report, without any reason whatever. If the gentleman, by altering the phraseology, can make the sentiment any better, by all means let it be done: but if the sentiment is not to be changed, why alter it merely to substitute other words? On the whole, Mr. S. observed, that he did not see the answer could in any degree be reproached. There are no sentiments in it but what are justifiable on the ground of truth; they are free from adulation. It is such an expression of national regret and gratitude as the circumstance calls for; a regret at the retirement of a faithful and patriotic Chief Magistrate from office. A regret and gratitude which he believed to be the sentiment of Americans.

Mr. SWANWICK began by observing that there were points in the Address in which all gentlemen seemed to agree, while on other parts they cannot agree. We all agree in our desire to pay the PRESIDENT every possible mark of respect; but we very materially disagree wherein a comparison is drawn between this and foreign nations. If we are happy and other nations are not so, it is but well for us; but he thought it would be much more prudent in us to let other nations discover it, and not make a boast of it ourselves. It is very likely that those nations whom we commiserate may think themselves as happy as we are: they may feel offended to hear of our comparisons. If we refer to the British Chancellor of the Exchequer in his speeches, he would tell us that is the happiest and most prosperous nation upon earth. How then can we commiserate with it as an unfortunate country? If, again, we look to France, that country which we have pointed out as full of wretchedness and distress, yet we hear them boast of their superiority of light and freedom, and we have reason to believe not without foundation. A gentleman had talked about the flourishing state of our agriculture, and asserted that our late commercial calamities were not proofs of our want of prosperity, which the gentleman compared to specks in the sun. That gentleman speaks as though he lived at a distance. Has he heard of no commercial distresses, when violations so unprecedented have of late occurred? One merchant has to look for his property at Halifax, another at Bermuda, another at Cape Françoise, another at Gonaives, &c.; all agree that they have suffered, and that by the war. These are distresses gentlemen would not like to feel themselves. Mr. S. said he had felt for these occurrences. We are not exempt from troubles: probably we may have suffered as much as other nations who are involved in the war. It is a question whether France has been distressed at all by the war. She has collected gold and silver in immense quantities by her conquests, together with the most valuable stores of the

productions of the arts; as statues, paintings, and manuscripts of inestimable worth; and at sea has taken far more in value than she has lost: besides, her armies are subsisting on the requisitions her victories obtain. And has England gained nothing by the war? If we hearken to Mr. Pitt, we may believe they are very great gainers. Surely the islands in the West and East Indies, Ceylon, and the Cape of Good Hope, the key to the East Indies, are advantages gained; besides the quantity of shipping taken from our merchants. Mr. S. thought if we were to compare, we should find those nations had gained by the war, while we had lost; and of course there was no reason for us to boast of our advantages.

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Mr. W. SMITH next rose, and observed that gentlemen wished to compliment the PRESIDENT, but took away every point on which encomium could be grounded. One denies the prosperity of the country, another the free and enlightened state of the country, and another refuses the PRESIDENT the epithet of wise and patriotic.

Mr. GILES here rose to explain. If he was meant, he must think the gentleman was wrong in his application. He said he had never harbored a suspicion of the good intentions of the PRESIDENT, nor did he deny his patriotism; but the wisdom and firmness of his Administration he had doubted. He thought him a good meaning man, but often misled.

Mr. SMITH again rose, and said, he must confess himself at a loss for that refinement to discover between the wisdom and patriotism of the PRESIDENT, and that of his Administration. It was moved to strike out this acknowledgment of wisdom and firmness. What were we to substitute as complimentary to him in its place? The first paragraph proposed to be struck out related to our speaking of the tranquillity of this country, compared to nations involved in war. Could this give offence, because we feel pleasure in being at peace? It was only congratulating our own constituents on the happiness we enjoy. To appreciate the value of peace, it was necessary to compare it with a state of war. It was the wisdom of this country to keep from war, and other nations hold it up as exemplary in us. The gentleman himself has declared his wish for the preservation of peace; and though he admires it, and nations admire it in us, yet we are not to compare our state with nations involved in the calamities of war, in order to estimate our enjoyments. The words of this Address are not a communication to a foreign minister, it is a congratulation to our own Chief Magistrate of the blessings he, in common with us, enjoys. Mr. S. hoped the words would not be struck out.

Mr. DAYTON (the Speaker), said, that he did not rise to accept the challenge given by the gentleman who spoke last from South Carolina, and to point out a nation more free and enlightened than ours; nor did he mean to contest the fact of ours being the freest and most enlightened in the world, as declared in the reported Address, but he was nevertheless of opinion that it did not become them to make that declaration, and thus to extol themselves by a comparison with, and at the expense of all others. Although those words were in his view objectionable, he was far from assenting to the motion for striking out the seven or eight last clauses of the Address. The question of order having been decided, Mr. D. said he would remind the committee, that if they wished to retain, or even to amend, any section or sentence of all that was proposed to be struck out, they ought to give their negatives to this motion, as the only means of accomplishing their purpose. It was sufficient, therefore, for those who were opposed to the question for striking out the whole, to show that any part included within it ought to be preserved. Not unnecessarily to waste time, by lengthening the debate, he would take the clause first in order, and confine his remarks to that alone. This part of the Address had certainly not been read, or had been misunderstood and misrepresented by the member from Pennsylvania.

Mr. AMES said, if gentlemen meant to agree to strike out the whole as proposed, in order to adopt those words substituted by the gentleman from South Carolina (Mr. HARPER), he must observe that he thought this would be as far from giving satisfaction to others, who, it appeared, wanted no substitute. He, therefore, hoped that kind of influence would not prevail on this occasion. The gentleman who made the motion did it to accommodate matters, and not because he himself objected to the answer reported.

It is well known that a committee of five members, opposite in sentiment, was appointed to prepare a respectful Address in answer to the PRESIDENT'S Speech. [Here the original instructions were read.] As it was the duty of the committee to prepare a respectful Address, it cannot be matter of surprise, although it may of disapprobation with some, that the committee did their duty, and have taken notice of the several matters recommended to the House in that Speech. Respecting the particular notice they have taken, it might have been thought that some difficulty would occur. He said he need not observe, that the committee had reason to imagine that the form of the report would be agreeable to the House, as they were unanimous; although there had been in the wording some little difference of opinion, yet all agreed substantially in the Address, from a conviction of the delicacy of the subject. For that reason, if that only, unless the sentiments in the report of the Address should be found inconsistent with truth, he hoped no substitute of a form of words merely would prevail, as it would no longer be that agreed to in the committee, nor could come under their consideration equal to the printed report. He therefore trusted that when the committee came to the question, whether to strike out or not, gentlemen would be guided by no other motive to vote for striking out, than an impropriety in the sentiments through an evident want of truth in them; and if such cannot be discovered, why strike out the expressions?

It had been observed by some gentleman, that the cry of foreign influence is in the country. He did not see such a thing exist. He would not be rudely explicit as to the foundation there was for such a cry; but when it was once raised, the people would judge whether it was fact or not. He could not tell how this influence was produced, but the world would draw a view how far we were

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under foreign influence. Mr. A. here alluded to the influence which foreign agents wished to have over the minds of the people of this country, in order to support a factious spirit, probably to the appeal lately made to the people. He also alluded to a circumstance when the Imperial Envoy, M. Palm, in 1727, at London, published a rescript, complaining of the conduct of that Court; the spirit of the nation rose, and discord was sown. In consequence of which the Parliament petitioned the King to send the Envoy out of the country for meddling with the concerns of their nation. That is the nation which we call corrupted. Yet a similar affair has occurred here, and it is not to be reprobated; we are not to complain of it, nor even hear it, according to this doctrine. Independence is afraid of injuries, and almost of insults. We must forbear to exult in our peace, our light, our freedom, lest we should give offence to other nations who are not so. This may be the high tone of independence in the views of some people, but I must confess it is not so in mine; but it is probable those people may be wiser than I am, and their views extend farther. Foreign influence exists, and is disgraceful indeed, when we dare admire our own constitution, nor adore God for giving us to feel its happy effects. He thought, respecting the recent complaints of the French Minister, that there was not even a pretext for the accusation.

It had been observed by a gentleman, that the PRESIDENT, no doubt, is a very honest man, and a patriot, but he did not think him a wise man.

Mr. GILES here rose to explain. He said that, in his assertions, he meant not to reflect on his private character. He referred to his Administration. No doubt but the gentleman possessed both.

Mr. AMES said, he considered well what the gentleman had said. As a private man, his integrity and goodness cannot be doubted; but in his Administration—here we are to stop short; not a word about that; it won't bear looking into; it has been neither firm nor wise. If the House, in their Address to him, were to say, we think you a very honest, well-designing man, but you have been led astray, sometimes to act treacherously, and even dishonest in your Administration—we think you a peaceful man, and though much iniquity may have been practised in your Government, yet we think you are not in fault; on the whole, sir, we wish you snugly in Virginia. Such sentiments as these I do not like. Is this an Address or an insult? Is this the mark of respect we ought to show to the first man in the nation? Mr. A. observed, that he did not agree with the gentleman from South Carolina (Mr. SMITH), who said, that the President would carry daggers in his heart with him into his retreat from public life, if we refuse him our testimony of gratitude. No, he bears in his breast a testimony of his purity of motive; a conscious rectitude, while in public life, which daggers could not pierce. He would retire with a good conscience; perhaps it would be said this was adulation, but let it be remembered this was truth; this was not flattery; let gentlemen deny this; let them prove that this is not the will of their constituents. The country would judge our opinions when we come to give our yeas or nays; then the real friends of that man would be known.

The gentleman wishes him back to Virginia, was glad he designed to go; he did not regret his resignation. His name will appear in that opinion. The whole of the PRESIDENT's life would stamp his character. His country, and the admiring world knew it; and history keeps his fame, and will continue to keep it. We may be singular in our opinions of him, but that will not make his character with the world the less illustrious. We now are to accept of his resignation without a tribute of respect. We are not to speak of him as either wise or firm. We can only say he is an honest man: this would scarcely be singular; many a man is honest without any other good qualifications. What circle would gentlemen fix the committee in to amend this Address, if they are not to give scope to these sentiments? Better appoint no committee at all. If we address the PRESIDENT at all, I hope it will be respectfully, for loth respect is insult in disguise. I hope we shall not alter the original draft of the Address, but agree according to our former intentions to present a respectful and cordial Address.

Mr. SWANWICK rose to explain to those parts of the observations of some gentlemen who had lately spoken (Mr. DAYTON and Mr. AMES) on that part of the paragraph, which speaks of our gratitude to Providence. He should be sorry if such an idea was entertained from any thing he had observed. It was not that part of the paragraph, but the part where we are contrasted with other nations, that he objected to principally. Although, he must observe, it was not spoken in a style common to devotion, to tell Providence how wise and enlightened we were. It does not boast of our philanthropy, to say how much wiser and better we are than other nations. He thought the gentleman's reference to a clergyman very curious. It would not be right in us to say to God, we thank thee, we are wiser or more enlightened than others! If we are so, let us rejoice in it, and not offend others by our boasting. Gentlemen say, we are happier than though we were at war; are we at peace? No: we are involved in the worst of wars. Witness our spoliations from Algerine, English, and French cruisers, from some of which he himself had suffered materially. The PRESIDENT does not think we are at peace: he recommends a navy as the only efficient security to our commerce. How could that little island (England) command such influence in foreign dominions? It is by her navy. We cannot boast of such power. While we think ourselves much happier and stronger than others, others think us more diminutive; let us not boast. He feared that the revenues of this country would suffer materially through the great stagnation of commerce. He did not think they would be as productive as formerly. He feared it was too generally known, that this was not a time of very great prosperity. As he did not, for one, feel the prosperous situation of the country, he could not consent to violate his feelings by speaking contrary to them. The gentleman from Massachusetts (Mr. AMES) last session, spoke with great eloquence and at great length of the horror of war; which he considered as inevitable if the British Treaty (then the subject of debate) was not carried into effect.

Mr. CHRISTIE moved for the committee to rise. The House divided on the motion; 43 members



appeared against it, 31 only in favor of it. It was lost.

Mr. GILES rose and observed that he should not have troubled the committee with any further observations, but his ideas had been misrepresented; although he endeavored to prevent a possibility of misconstruction, yet it seems he had not been able to accomplish his wish. It was not wonderful, he said, that the PRESIDENT's popularity should be introduced into the debate when it had been so long in question. It had been too commonly done, he thought, but he hoped the influence of it would not be very great. As to the unanimity of the committee who drew up the Address, he cared very little about it; he should be extremely sorry to see it have any influence on the members of that House.

Gentlemen have said, that if we take out the expressions of our sense of the wisdom and firmness of the Administration of the PRESIDENT, they cannot find any ground on which to compliment him; if so, he for one would not be willing to present an Address at all. But his views were quite different; he thought it could be effectually done without adulation. He could not consent to acknowledge the wisdom and firmness of his Administration. Gentlemen had inquired for instances in evidence of this assertion. He said, that without seeking for more instances, that of the British Treaty was a standing proof in support of the assertion. Though many gentlemen believe nothing has been done injurious to the United States through that treaty, yet I acknowledge I see very great danger; we are not now in that state of security which could be wished. It is well known that the operation of the British Treaty is the groundwork of all the recent complaints of the French Government. It may be said that many of the complaints of the French Minister originated from actions previous to the British Treaty. It may be so, but that was the means of calling forth complaints which, perhaps, would otherwise never have been made; else why did not this calamity befall us before? It certainly may be ascribed to that instrument. Gentlemen may talk as they please about the law of nations; but the law of nations is, that a neutral nation shall not do any thing to benefit one belligerent power to the injury of another. Mr. G. said, he thought matters carried a serious aspect, and he very much disapproved of the declaration of a gentleman (Mr. AMES) who says, now is the time of danger; we are on the eve of a war with France, now let us boldly assert our rights. At the time the British Treaty was debating on, that gentleman was overcome with the prospect of a war; he then depicted it in horrible forms; but now how different his language! He now seems not afraid to embrace all its horrors, and was zealously calling out for the nation to support the Administration. Why did we not hear this when the British spoiled our commerce! If we are upon the eve of a war with France, as the gentleman supposes, it will be disastrous to this country; we have reason to deplore it; it will be calamitous indeed. France has more power to injure this country than any nation besides, and none we can injure less. What an influence can she command over our commerce? She can exclude us from our own ports; spoil our trade with Great Britain, and from her own extensive country; she can shut us out from the East Indies, as well as the West Indies; ruin our trade in the Mediterranean, which, owing to the late conquests of the French, may be rendered very flourishing and important to us; and by her alliance, offensive and defensive, with Spain, we not only have another enemy, but lose our late advantages in the navigation of the Mississippi. Suppose, by the influence of her politics, the doctrine of liberty and equality were to be preached on the other side of the Alleghany mountains, what numerous enemies may they breed in our own country? France can wound us most, and we have the least reason to provoke her. It would be policy in her to go to war with us; by ruining our trade with England, she could give a violent wound to her enemy; yet that gentleman says, now is the time to assert our rights, now we are in danger. The war-whoop and the hatchet, of which the gentleman spoke so feelingly last session, is no longer in his thoughts. If this was the only reason he had, it would be enough to influence his vote against an acknowledgment of the wisdom and firmness that has dictated our Administration.

Mr. WILLIAMS rose and said, he was sorry to trouble the committee at such a late hour, but he could not be satisfied with giving a silent vote on an occasion when the PRESIDENT's popularity was doubted. He thought members ought to speak the will of the people they represent. He could assert that it was not merely his own opinion he spoke, but that of his constituents, when he voted for the Address as reported. He was sorry to hear the gentleman last up speak in the style he had done, although he owned it was not altogether new to him. The gentleman wished the first clause to be struck out. Mr. W. thought it was the duty of every pious man to thank God for the benefits he enjoys. And shall not we, as a nation, thank him for keeping us from a state of war? Gentlemen's ideas were to strike the whole out in a mass; but he hoped they would not be gratified. Mr. W. said, he was very sorry to hear the gentleman speak against the wisdom and firmness of the PRESIDENT, which assertion seemed to have its foundation in the Treaty concluded with Great Britain. He would ask the gentleman whether that act of ours should have any influence on our situation with France? Wherein have we differed from the compact made with France by our treaty made with that country? We surely had a right to treat with Great Britain, else we could not be an independent nation; and France will not deny this. In 1778, the Ambassador of France informed the British Court that his nation had entered into a treaty with the United States, and at the same time informed them that great attention had been paid by the contracting parties not to stipulate any exclusive advantage in favor of the French nation, and that there was reserved, on the part of the United States, the liberty of treating with any nation whatsoever upon the same footing of equality and reciprocity. But the gentleman (Mr. GILES) says, we ought not to give an advantage to an enemy. Mr. W. said, that no advantage was given to Britain, but, on the contrary, the article complained of must be of advantage to France; it is an encouragement for American vessels to go to their ports; it insures them against loss, if they are interrupted in their voyage. It had been said that it would be to the interest of France to go to

war with us; if they consider it so, all that gentleman can say will not prevent it. When we reflect on a Treaty entered into on this principle with Great Britain, should France complain?

**THURSDAY, December 15.**

***Address to the President.***

The House, according to the order of the day, resolved itself into a Committee of the Whole on the answer to the PRESIDENT'S Address, Mr. MUHLENBERG in the chair.

The question before the committee was Mr. GILES' motion for striking out.

Mr. NICHOLAS said, he sincerely wished that such an answer might be agreed to, as would give a general satisfaction. He hoped some mode would be adopted to unite the wishes of every gentleman; his disposition, he said, led him to vote for the paragraph; he thought himself at liberty so to do, as he was satisfied the Administration had been, in many instances, wise and firm. He thought it improper that such debate should take place at the present time. He could see no inconvenience that could arise from voting for the Address. The words on which most stress had been laid, were those expressive of the wisdom and firmness of the PRESIDENT'S administration. He declared he thought it had much contributed to the success of this country; and if success had attended his measures, there could be nothing inconsistent in their acknowledging it; which was all the compliment necessary to give satisfaction.

Mr. RUTHERFORD.—My colleague has in a great measure anticipated my sentiments on this occasion. I am sorry for the mistaken zeal the gentlemen of the committee should have shown for the PRESIDENT, by introducing expressions into the Address so exceptionable, and which should be subject to such an uncomfortable exposure of that character.

I was able yesterday only to attend a part of the debate, through indisposition, but what I did stay to hear, hurt me very much. I heard gentlemen speak ill of the common parent of our country, whom we all revere; and was a slip, but one criminal slip, to rob the PRESIDENT of his good name? We have seen the goodness of the heart of that man, and with satisfaction. We have seen him wrestling with his own feelings to continue in the important and weighty business of Government; we have seen him contending with two great rival nations, and yet preserved peace. When he had made a slip, the people of America have stepped forward to assist him, and dropped the generous tear, sensible that to err is human, and that we are all liable to do wrong. I am sure that my colleagues and every one in the House hold the character and virtue of that man in high esteem. I am sorry to see that division of sentiment which has taken place; it would make the world believe that we wish to rob him of those qualifications. It is the justice and duty of this House to do that man, that patriot, all the honor they can, whilst it is the interest of this nation to hold in view those great points with generous satisfaction, and good wishes to the man who has stepped forward, and not in vain, to the support of our Republic in the war, and under Divine assistance was made our deliverer. And now for gentlemen to come here and speak of the troubles of the country, ascribing all our adversity to him, it is like applying cold water where the strongest energy is necessary. Again I would repeat, that if that man, our common parent, has committed errors, it is no more than we all may do—it is the general lot of all. If there have been faults in the Administration, I do not think they lie at his door, but at his counsellors'; he has had bad counsellors; his advisers are to blame, and not him. I never saw how he could have done otherwise than he did. And now, sir, said Mr. R., it is our duty to bear those great actions and generous sentiments in our view, that, on his retirement from his public station, we may render him all the respect due to his character. Nor would I less remember our situation with France, that great and generous Republic, under whom we owe our liberty. Let us not give offence to her, but by every mark of gratitude and respect, act a part consistent with a just sense of our peaceable intention. Let us act with the greatest circumspection and deliberation.

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Mr. LIVINGSTON was sorry the answer was not drafted so as to avoid this debate. He said it was his sincere desire and hope that the candor of gentlemen who advocated the Address in its present form, and those who wished it amended, would so combine as to make it agreeable to all. He said he intended to oppose the amendments which had been proposed, although he did not see the Address every way right; with a view to reconcile parties, when the present motion was disposed of, he should move to strike out some words, in order to insert others. He could not, like some gentlemen, draw consolation from the misfortunes of other nations; their distresses were rather matter of regret; nor did he see a propriety, as another gentleman had done, of likening our affairs with those of the members of a family; but, even if it would bear, he could not see that tranquillity in this family as was expressed. His only objection, he said, to the paragraph in question, was the words "tranquil prosperity." He believed the United States did not enjoy that tranquil prosperity; on the contrary, he thought this was a time of great calamity in the country, and he thought that it was owing, principally, to the measures of the Government. There were other clauses in the Address, he said, he should, when they came to be considered, make objections to, and he thought they could be all easily removed by motions suitable; however, he said there were many sentiments in the Address in which he heartily concurred. He should vote against the striking out the eight clauses in question, as he thought such amendments could be proposed as would make the Address meet his hearty concurrence, and he believed give general satisfaction.

Mr. GILES' motion was then put, to strike out those clauses, and negatived.

Mr. PARKER renewed the motion he made yesterday, to strike out the words "freest and most

enlightened in the world."

Mr. AMES hoped that the motion to strike out would not prevail; for, without being over tenacious on the subject, he must give a preference to the copy of the report which was printed; the members had the advantage of weighing it in their minds, which they would lose by adopting the substitute; besides, he thought the ideas were so crowded in that proposed, as to render it heavy; he hoped the reported Address would be agreed to.

Mr. HARPER'S motion was then put and negatived. Twenty-five members only voting for the motion.

Mr. PARKER again moved to strike out "freest and most enlightened," &c.

Mr. W. SMITH said yesterday, in the discussion on the subject, gentlemen had assigned for their reason to strike out those words that other nations would be offended at us. It was usual, he said, for nations to applaud themselves, and he thought it could give no offence to any. He did not hear gentlemen mention what nation was meant. He presumed the only nation that could be alluded to was the French Republic. If, however, it can be proved that they have used similar language, he supposed it would give gentlemen some ease as to this particular. In looking over some papers, he had seen several bombastical expressions in a note of Barthelemy, a report to the Convention of Laviere, and of Cambaceres, in the name of the three committees. In one are these words, "a Government so powerful as the French." In another, he calls it "the most enlightened in the civilized world." In another, "the first in the universe." He hoped that while that nation could use expressions like these, the gentlemen of this House would not think the expressions referred to would give offence to that or any other nation.

Mr. PARKER said, when he made the motion he did not refer to any particular nation; he had neither France nor England in view; he did not wish to see us contrast our political situation with that of any other country. His objections to the words, he said, arose from our making the declaration ourselves. Our Government, he acknowledged, was free; it was the best, in his opinion, any where. He wished to believe the people as enlightened as any other; he believed they were, and if they were not, they had only themselves to blame; but however enlightened or free we were, in his opinion, we were not the proper organs to declare it; however enlightened we might be, he thought the last four years Administration had convinced many, as well as himself, that the Administration was not the most enlightened; if they had, they would not have suffered such shameful spoliations on our commerce, and shameful acts of cruelty to our seamen. He said the two little monarchies of Denmark and Sweden, neither of which, in point of extent, can be compared with the United States, more (to use the comparison of the gentleman from Pennsylvania yesterday) than a speck is to the sun; nor are they either of them in population nearly equal to the United States; and although they are surrounded by the greatest warlike powers in a belligerent state, yet they have preserved their neutrality inviolate; their ships have not been wantonly seized, nor have their seamen been torn from their ships, or whipped at the gang-way of British ships-of-war, or been shot by their press-gangs. To mention the instances of British cruelty towards our seamen in every instance that could be adduced, would take up time unnecessarily; one alone, that recently happened, I shall relate:

The brother of a member of this House (Mr. FRANKLIN, of N. C.) was impressed on board a British ship-of-war in the West Indies; he was unacquainted with seamanship, having only made a passage from North Carolina to the Islands; being awkward and not being a seaman, he was discharged. The same evening, a press-gang of the same ship fell in with him and made him a prisoner; in attempting to make his escape, he was shot at. The ball was aimed at his body; it was not winged with death, but the young man was wounded in the hand.

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Mr. AMES said, if any man were to call himself more free and enlightened than his fellows, it would be considered as arrogant self-praise. His very declaration would prove that he wanted sense as well as modesty, but a nation might be called so, by a citizen of that nation, without impropriety; because, in doing so, he bestows no praise of superiority on himself; he may be in fact, and may be sensible that he is less enlightened than the wise of other nations. This sort of national eulogium may, no doubt, be fostered by vanity, and grounded in mistake; it is sometimes just, it is certainly common, and not always either ridiculous or offensive. It did not say that France or England had not been remarkable for enlightened men; their literati are more numerous and distinguished than our own. The character, with respect to this country, he said, was strictly true. Our countrymen, almost universally, possess some property and some pretensions of learning—two distinctions so remarkably in their favor, as to vindicate the expression objected to. But go through France, Germany, and most countries of Europe, and it will be found that, out of fifty millions of people, not more than two or three had any pretensions to knowledge, the rest being, comparatively with Americans, ignorant. In France, which contains twenty-five millions of people, only one was calculated to be in any respect enlightened, and, perhaps, under the old system, there was not a greater proportion possessed property; whilst in America, out of four millions of people, scarcely any part of them could be classed upon the same ground with the rabble of Europe. That class called vulgar, canaille, rabble, so numerous there, does not exist here as a class, though our towns have many individuals of it. Look at the lazzaroni of Naples; there are twenty thousand or more houseless people, wretched, and in want! He asked whether, where men wanted every thing, and were in proportion of 29 to 1, it was possible they could be trusted with power? Wanting wisdom and morals, how would they use it? It was, therefore, that the iron-hand of despotism was called in by the few who had any thing, to preserve any kind of control over the many. This evil, as it truly was, and which he did not propose to commend, rendered true liberty hopeless. In America, out of four millions of people, the proportion which cannot read and write, and who, having nothing, are interested in plunder

and confusion, and disposed for both, is small. In the Southern States, he knew there were people well-informed; he disclaimed all design of invidious comparison; the members from the South would be more capable of doing justice to their constituents, but in the Eastern States he was more particularly conversant, and knew the people in them could generally read and write, and were well-informed as to public affairs. In such a country, liberty is likely to be permanent. They are enlightened enough to be free. It is possible to plant it in such a soil, and reasonable to hope that it will take root and flourish long, as we see it does. But can liberty, such as we understand and enjoy, exist in societies where the few only have property, and the many are both ignorant and licentious?

Mr. CHRISTIE wished to make an amendment to the paragraph, which he thought would answer the end equally as well as striking it out; if agreeable to the gentleman from Virginia, (Mr. PARKER,) he would move to put the word "among" after the word "freest," which would read "the freest and *among* the most enlightened." He could not say we were the most enlightened, but he did think us the most free; not that he was afraid of offending any nation, but he thought this a more consistent declaration.

Mr. SWANWICK said, nobody doubted but we were free and enlightened, but he thought their declaration was no evidence of the truth of it. He thought the last amendment very good, but it would be still better if the gentleman would put the word "among" a little further back, so as to read "among the freest and most enlightened." A pacific disposition could not be proved by any thing so well as treating others with respect as well as ourselves; we may not be exclusively free or enlightened. He hoped it would be thus altered.

Mr. CHRISTIE thought we were the freest people in the world; he, therefore, could not agree to the amendment last proposed.

Mr. COIT could not say with the gentleman last up, that we were the freest, but he was very willing to agree with the amendment of a gentleman, that we were among the freest and most enlightened; he thought the first amendment much improved by this; he said it removed great part of the difficulty from the minds of many gentlemen; however, he hoped no unnecessary time would be taken up with such trifles.

Mr. DAYTON (the Speaker) said, that some of the observations which had been brought into the present debate, were of too delicate a nature to be commented upon or even repeated; he should not, therefore, follow the gentleman who spoke last, in his inquiry, how far this country was exposed to be annoyed by France in the possible, though happily not probable, event of a rupture with France?

As to the words "freest and most enlightened," which were more immediately the subject of discussion, he did not object against them on the ground of fact, but he considered the expression as resolving itself into a question of decorum and delicacy, the rules of which appeared to him to be violated, in their ascribing to themselves such a superlative preference, however true, in a comparison with every other people. The amendment of the gentleman from Maryland (Mr. CHRISTIE) very much softened the terms and rendered them more palatable.

Mr. KITCHELL thought we had given a very good proof that we are not the most enlightened people in the world, by this discussion; and if we declare to the world that we are, that declaration will be a still more glaring proof. It appeared to him quite unnecessary; he thought it spending a great deal of time to no purpose; it was not important enough for that waste of time, when the session was to be so short; he therefore wished the question to be put.

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Mr. SITGREAVES agreed that a very useless and improper latitude had been assumed in the discussion, and he thought that a few moments would not be misspent in recalling the attention of the committee to the real question before them. The assertion that we are the freest and most enlightened nation in the world was found fault with, and while some gentlemen moved to strike it out altogether, others proposed to qualify it in different ways. Mr. S. believed that, in any modification of the expression, the criticism was, in itself, extremely unimportant; and if, as some gentlemen had treated it, it was a mere question of decorum, he should feel perfectly indifferent whether it was rejected or retained. But when he heard one member deny that we are the most free, and another that we are enlightened; and most especially when he heard that the expression was contended to be improper in relation to the acts and the administration of the Government, he confessed it did appear to him to be of some consequence not to part with the expression, lest, by doing so, the House should give countenance to these objections. For his own part, he believed the proposition to be true; he conceived the word "enlightened," as applicable to political illumination; and not to our rank in arts, sciences, or literature; and he considered the sentence as equivalent to an assertion that we enjoy the most enlightened system of political freedom extant. In this view of it, he thought it literally true; and, if true, he could not discern the indecorum of declaring so on the present occasion. He was strongly impressed with the propriety of the idea which he had suggested yesterday, that this should be considered as an act of intercourse purely domestic, an expression of self-gratulation on our superior happiness, which, by the forms of society, ought not to be noticed by any other nation. We may be deemed, without too bold a figure, to be speaking in soliloquy; and to listen to what we say would be no better than eavesdropping: the indecorum would rest with those who overhear us, and not with ourselves. It could not be denied that such a belief of the superiority of our political situation ought to be cherished among us. If we did not believe it, we should take shame to ourselves, because our Government is the work of our own hands. If the belief that we are free and enlightened is valuable, the expression of it is also valuable, because it tends to preserve us so; it is a sentiment which we cannot dwell upon too much.

But, he contended, the propriety of this or any other expression could not be justly estimated by considering it in the abstract—it ought to be viewed in its application and use. We are about to lose the services of the PRESIDENT, who is admitted on all hands to have been a useful and patriotic officer. The House of Representatives are desirous that he should take with him to his honorable retirement the only reward which the nature and spirit of our political institutions admit of—the approbation of his country. It will surely be admitted that we ought to give to the expression of this approbation all the value of which it is susceptible; and it is obvious, from the slightest perusal of this paragraph in the Address, that the words in question give to it all its force and energy, and that without them, it would be an unmeaning compliment. The spectacle of a nation, neither free nor enlightened, offering to its first Magistrate the tribute of approbation and applause, would neither be "novel nor interesting," since the days of history are stained with numberless instances of prostituted praise and courtly adulation; but when it is the voluntary homage of a free and enlightened people, offered with sincerity to an illustrious fellow-citizen, it is truly a precious reward for patriotic labors. Those who object to this expression, therefore, ought to move to strike out the whole paragraph. To reject the words would totally defeat the intended compliment; to qualify them would spoil it. Mr. S., therefore, wished to retain them as they were reported.

Mr. THATCHER said, he did not think the object of the present question of much consequence, nor did he care much about it; however, he would wish to see the members more unanimous on the subject; he would, therefore, propose an amendment, which he thought would have some tendency towards it, which was to leave out the superlative, and let the passage read, "The spectacle of a free and enlightened nation."

Mr. HENDERSON commended the ingenuity of the last motion, as he thought it would more concentrate the ideas of the members. He would vote for it.

Mr. CHRISTIE'S motion was then put, and negatived.

Mr. THATCHER'S motion was put, and passed in the affirmative.

Mr. LIVINGSTON then moved to strike out the words from the next paragraph, "Wise, firm, and patriotic Administration," and insert in their place, "Your wisdom, firmness, and patriotism has been." He could not say that all the acts of the Administration had been wise and firm; but he would say, that he believed the wisdom, firmness, and patriotism of the PRESIDENT had been signally conducive to the success of the present form of government. He was willing to give him every mark of respect possible, but he believed some of his public acts of late rendered the present motion necessary.

Mr. W. SMITH opposed the amendment, as he thought the gentleman who proposed it conceived the words to imply more than was meant by them—they are not meant to include every act of the Executive. He thought that the Administration in general had been wise, firm, and patriotic; that the wisdom and firmness of the PRESIDENT had been conducive to the success of the present form of government. Had not the words been put in the reported Address, he thought it would not have been of consequence whether they were ever inserted; but the difference is very great. Now they are inserted, they are made public, and, to erase them now, and substitute words in any manner deficient in sentiment to them, would be to carry censure and not respect. That the Administration of that valuable man had been wise and conducive to the good of this country, will not admit of a doubt; and for us to rob him of that honor which is his due, would be insult. And any thing short of the words in the Address he thought would not carry a proper mark of respect.

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Mr. GILES observed, that he thought the Administration had been very deficient in wisdom. Many gentlemen, he said, were very particularly opposed to the British Treaty and to the great emission of transferable paper. Could it then be supposed these gentlemen could, in this instance, so change their opinion? The gentleman last up had said, that because the words were in the reported Address they ought not to be struck out. He thought that the House had now as much power to act as though the committee had made no report. He thought they ought not in any way to be influenced by the report of the select committee, but act as though they had to form the Address themselves. He believed that the PRESIDENT possessed both wisdom and firmness. He was willing to compliment the PRESIDENT as much as possible in his personal character, but he could not think it applicable to his Administration. He thought the amendment proposed would meet his concurrence, and he hoped it would be agreed to.

Mr. GILBERT hoped and presumed that the motion of his colleague would not obtain. He understood that the House addressed the PRESIDENT in answer to his Speech, always as a public man, and not in his private capacity. How extraordinary, then, will it appear in this House to refer only to his private conduct! It is, in substance, complimenting him as a private man, while the very words reprobate him in his public station. We are now to address him as PRESIDENT OF THE UNITED STATES. We may tell him of his wisdom and his firmness, but what of all that unless we connect it with his Administration?

Mr. ISAAC SMITH.—The sin of ingratitude is worse than the sin of witchcraft; and we shall damn ourselves to everlasting fame if we withhold the mighty tribute due to the excellent man whom we pretend to address. Posterity, throughout all future generations, will cry out shame on us. Our sons will blush that their fathers were his foes. If excess were possible on this occasion, it would be a glorious fault, and worth a dozen of little, sneaking, frigid virtues. I abhor a grudging bankrupt payment, where the debtor is much more benefited than the creditor. The gentleman from Virginia misrepresents his own constituents—I am sure he does all the rest of the Union. On the present occasion we ought not to consult our own little feelings and sensibilities. We should speak with the heart and in the voice of millions, and then we should speak warm and loud.

What! "Damn with faint praise:" and suppress or freeze the warm, energetic, grateful sensations of almost every honest heart from Maine to Tennessee! I will not do it! Every line shall burn! This is a left-handed way of adoring the people.

Mr. DAYTON (the Speaker) said, the motion then before them was of great importance, and every man who thought favorably of the PRESIDENT'S Administration should there make a stand. For, if the words were struck out, it would convey an idea to the world that it was the opinion of that House that the Administration of the PRESIDENT had neither been wise nor patriotic. Gentlemen might very well concur in the Address in its present form, who did not think that every single act of the PRESIDENT had been wise and firm, since it was his Administration in general which was referred to, and not each individual act. He hoped, therefore, the amendment offered would be decidedly opposed, and that the words proposed to be struck out would be retained.

Mr. GALLATIN thought the words objected to were conceived to mean more than they really did mean by gentlemen who supported the present motion; nor could he conceive how the words "firmness and patriotism," proposed to be inserted, could apply to any thing but the public character of the PRESIDENT. On the first view of the Address, Mr. G. said, he thought with the gentlemen from New York and Virginia, and it was not without considerable hesitation that he brought himself to agree to this part of the Address. He found, however, on further examination, that they did not go so far as he at first thought they did. Had they approved of every measure of the PRESIDENT OF THE UNITED STATES, he should have voted against them. But, in the first place, he would observe, that his Administration did not include Legislative acts; so that whatever evils had arisen from the funding or banking systems were not to be charged to the PRESIDENT. They did not mean to pay compliments to themselves but to the PRESIDENT: therefore, the words in question related only to the Administration of the PRESIDENT alone, and not to those officers of State which had been supposed by some gentlemen. The first question was, then, whether that Administration had been marked with wisdom, firmness, and patriotism? And, he would briefly say, so far as related to the internal situation of the country, it had borne these marks. He did not recollect any instance where he could say here was any want of wisdom, or there of firmness or patriotism. If they proceeded to foreign affairs, a great number of members were found (he for one) who wished that certain acts had not taken place; and, if he thought, in giving approbation to this Address, he was approving of these measures, he would certainly vote against it. But, as the gentlemen from South Carolina and New Jersey (Mr. SMITH and the SPEAKER) had observed, as the approbation went to the Administration in toto, it had respect to no particular act. Nor did he believe the literal sense of the words would apply to the business of the late treaty. [He read the words.] The most clear meaning of these words related to the present Government and constitution; and the word "success" could apply to those parts of the Administration only which had had time to be matured. He did not believe that at the present period it could be said that the Treaty with Great Britain had been successful, and, therefore, could not be included within the meaning of the expression. Not meaning to pledge an approbation of that act, and not conceiving that the sentence could have such a meaning, he would vote against the proposed amendment, and for the original.

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The question was put on the amendment and negatived. The committee then rose, reported the Address with the amendments, when the House took them up, and having gone through them—

On the question being about to be put on the answer as amended, Mr. BLOUNT wished the yeas and nays might be taken, that posterity might see that he did not consent to the Address.

The main question being put, it was resolved in the affirmative—yeas 67, nays 12, as follows:

YEAS.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, David Bard, Theophilus Bradbury, Nathan Bryan, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, William Cooper, William Craik, James Davenport, Henry Dearborn, George Dent, George Ege, Abiel Foster, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glenn, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, Thomas Henderson, William Hindman, George Jackson, Aaron Kitchell, Samuel Lyman, James Madison, Francis Malbone, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, John Page, Josiah Parker, John Patton, John Read, John Richards, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Isaac Smith, William Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, George Thatcher, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

NAYS.—Thomas Blount, Isaac Coles, William B. Giles, Christopher Greenup, James Holland, Andrew Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, and Abraham Venable.

*Resolved*, That the SPEAKER, attended by the House, do present the said Address; and that Mr. AMES, Mr. MADISON, and Mr. SITGREAVES, be a committee to wait on the PRESIDENT to know when and where it will be convenient for him to receive the same.

## FRIDAY, December 16.

Mr. AMES, from the committee appointed to wait on the PRESIDENT to know when and where he would receive the answer of this House to his Address, reported that he had appointed to receive

it at his house this day at two o'clock.

***Address to the President.***

The SPEAKER informed the House that the hour was nearly at hand, which the PRESIDENT had appointed for receiving the Address of the House, in answer to his Speech. The members, in a body, accordingly waited upon the PRESIDENT, at his house; and the SPEAKER pronounced the following Address:

"SIR: The House of Representatives have attended to your communication respecting the state of our country, with all the sensibility that the contemplation of the subject and a sense of duty can inspire.

"We are gratified by the information, that measures calculated to ensure a continuance of the friendship of the Indians, and to maintain the tranquillity of the Western frontier, have been adopted; and we indulge the hope that these, by impressing the Indian tribes with more correct conceptions of the justice, as well as power of the United States, will be attended with success.

"While we notice, with satisfaction, the steps that you have taken, in pursuance of the late treaties with several foreign nations, the liberation of our citizens, who were prisoners at Algiers, is a subject of peculiar felicitation. We shall cheerfully co-operate in any further measures that shall appear, on consideration, to be requisite.

"We have ever concurred with you in the most sincere and uniform disposition to preserve our neutral relations inviolate; and it is, of course, with anxiety and deep regret we hear that any interruption of our harmony with the French Republic has occurred; for we feel with you, and with our constituents, the cordial and unabated wish to maintain a perfectly friendly understanding with that nation. Your endeavors to fulfil that wish, and by all honorable means to preserve peace and to restore that harmony and affection, which have heretofore so happily subsisted between the French Republic and the United States, cannot fail, therefore, to interest our attention. And while we participate in the full reliance you have expressed on the patriotism, self-respect, and fortitude of our countrymen, we cherish the pleasing hope that a mutual spirit of justice and moderation will ensure the success of your perseverance.

"The various subjects of your communication will, respectively, meet with the attention that is due to their importance.

"When we advert to the internal situation of the United States, we deem it equally natural and becoming to compare the present period with that immediately antecedent to the operation of the Government, and to contrast it with the calamities in which the state of war still involves several of the European nations, as the reflections deduced from both tend to justify as well as to excite a warmer admiration of our free constitution, and to exalt our minds to a more fervent and grateful sense of piety towards Almighty God for the beneficence of His providence, by which its Administration has been hitherto so remarkably distinguished.

"And while we entertain a grateful conviction that your wise, firm, and patriotic Administration has been signally conducive to the success of the present form of government, we cannot forbear to express the deep sensations of regret with which we contemplate your intended retirement from office.

"As no other suitable occasion may occur, we cannot suffer the present to pass without attempting to disclose some of the emotions which it cannot fail to awaken.

"The gratitude and admiration of your countrymen are still drawn to the recollection of those resplendent virtues and talents which were so eminently instrumental to the achievement of the Revolution, and of which that glorious event will ever be the memorial. Your obedience to the voice of duty and your country, when you quitted reluctantly, a second time, the retreat you had chosen, and first accepted the Presidency, afforded a new proof of the devotedness of your zeal in its service, and an earnest of the patriotism and success which have characterized your Administration. As the grateful confidence of the citizens in the virtues of their Chief Magistrate has essentially contributed to that success, we persuade ourselves that the millions whom we represent, participate with us in the anxious solicitude of the present occasion.

"Yet we cannot be unmindful that your moderation and magnanimity, twice displayed by retiring from your exalted stations, afford examples no less rare and instructive to mankind, than valuable to a Republic.

"Although we are sensible that this event, of itself, completes the lustre of a character already conspicuously unrivalled by the coincidence of virtue, talents, success, and public estimation; yet we conceive we owe it to you, sir, and still more emphatically to ourselves and to our nation, (of the language of whose hearts we presume to think ourselves at this moment the faithful interpreters,) to express

the sentiments with which it is contemplated.

"The spectacle of a free and enlightened nation offering, by its Representatives, the tribute of unfeigned approbation to its first citizen, however novel and interesting it may be, derives all its lustre (a lustre which accident or enthusiasm could not bestow, and which adulation would tarnish) from the transcendent merit of which it is the voluntary testimony.

"May you long enjoy that liberty which is so dear to you, and to which your name will ever be so dear; may your own virtues and a nation's prayers obtain the happiest sunshine for the decline of your days and the choicest of future blessings. For our country's sake, for the sake of Republican liberty, it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants."

To which the PRESIDENT made the following Reply:

"GENTLEMEN: To a citizen whose views were unambitious, who preferred the shade and tranquillity of private life, to the splendor and solicitude of elevated stations, and whom the voice of duty and his country could alone have drawn from his chosen retreat, no reward for his public services can be so grateful as public approbation, accompanied by a consciousness that to render those services useful to that country has been his single aim: and when this approbation is expressed by the Representatives of a free and enlightened nation, the reward will admit of no addition. Receive, gentlemen, my sincere and affectionate thanks for this signal testimony that my services have been acceptable and useful to my country. The strong confidence of my fellow-citizens, while it animated all my actions, ensured their zealous co-operation, which rendered those services successful. The virtue and wisdom of my successors, joined with the patriotism and intelligence of the citizens who compose the other branches of Government, I firmly trust, will lead them to the adoption of measures which, by the beneficence of Providence, will give stability to our system of Government, add to its success, and secure to ourselves and to posterity that liberty which is to all of us so dear.

"While I acknowledge, with pleasure, the sincere and uniform disposition of the House of Representatives to preserve our neutral relations inviolate, and, with them, deeply regret any degree of interruption of our good understanding with the French Republic, I beg you, gentlemen, to rest assured that my endeavors will be earnest and unceasing, by all honorable means, to preserve peace, and to restore that harmony and affection which have heretofore so happily subsisted between our two nations; and with you, I cherish the pleasing hope that a mutual spirit of justice and moderation will crown those endeavors with success.

"I shall cheerfully concur in the beneficial measures which your deliberations shall mature on the various subjects demanding your attention. And while directing your labors to advance the real interests of our country, you receive its blessings; with perfect sincerity my individual wishes will be offered for your present and future felicity.

"G. WASHINGTON."

The members then returned to the House, and having resumed their places, the SPEAKER presented a copy of the PRESIDENT'S Answer to the Clerk; which he read.

### **MONDAY, December 19.**

JOHN HATHORN, from New York, and JOHN MILLEDGE, from Georgia, appeared and took their seats.

A new member, to wit, ELISHA R. POTTER, from Rhode Island, in the place of BENJAMIN BOURNE, resigned, appeared, produced his credentials, was qualified, and took his seat in the House.

### **MONDAY, December 26.**

#### ***National University.***

Mr. HARPER moved the order of the day, for the House to go into a committee on the establishment of a National University. The House accordingly formed itself into a committee—Mr. COIT in the chair.

When the report was read, Mr. MACON said there was the word "appropriation" in the report. He did not recollect any having been made for that purpose. He wished to know what was meant? [Pg 35]

Mr. CRAIK said, authority was given for the PRESIDENT to appropriate about twenty acres of land for the erection of this building; this he supposed to be what was meant.

Mr. NICHOLAS said, that some time or other the institution of a Seminary in this District may be of use, but at present, and in the manner contemplated in this report, it would not do. If carried into effect thus, it will sometime need an appropriation. We are now, said Mr. N., going into the subject, but we know not to what lengths it may carry us; we do not know where it will end. He did not think the time had arrived to incorporate a company for building a National University. It



would be taking money from those districts of country which can do for themselves, and would receive no benefit from this institution. It would be inconvenient and inconsistent for people living at a considerable distance to send their children to this University; besides, he thought, the further children are from home, by being less under the eye of their parents, the more their morals would be injured. If it be a National University, it must be for the use of the nation. It will then be necessary to open funds for the purpose of its support. It is recommended by the PRESIDENT, it is true; but this is no argument why we should precipitate the business: it is the last time he will have an opportunity to address this House, and it being an object he should like to see encouraged when it was practicable, he took that opportunity to express it. We are not now in a situation to forward its establishment. It may be done at some time, but Mr. N. thought it would be many years first. That district of country would be many years before it could encourage the hope of such a plan prospering. He thought gentlemen from other parts of the Union would not say they wanted it for their youth. He thought if the House once entered into the subject, the responsibility would fall on it to keep up the institution.

Mr. HARPER said, it did not appear to him that the gentleman last up had attended sufficiently to this report, for he seemed to be much mistaken as to its principle. There was nothing in it that contemplated pledging the United States to find funds for its support; nor was it the object of the report to establish a National University. He agreed with the gentleman, that we were not arrived at a period for such an institution. But gentlemen would see that the object of the commissioners was not to establish a National University or obtain money from the United States, but their direct object was, to be incorporated, so as to be enabled to receive such legacies and donations as may be presented to the institution, and hold it in trust for that purpose. The PRESIDENT had already given nineteen acres of land, and signified his intention to give fifty shares in the Potomac canal whenever there was proper authority to receive endowments. It appears that there is no authority at present. The memorial goes no further than to authorize them to receive such benefactions as may be made, and hold them in trust. How far, then, this went towards involving this House in its support, he should leave the good sense of gentlemen to judge. Mr. H. thought the amount of this memorial could not have any evil tendency, but it may have a good one; for which reason he hoped it would be agreed to.

Mr. BALDWIN did not know any thing, according to his present views, which could be injurious in the report. At present it seemed favorable to him. He had two principal ideas in his mind, which made it appear so; if neither of which was cleared up otherwise, he should vote for it. The first thing he should ask was, Is such a thing desirable? And then, Is there a Seminary so near the spot contemplated, as to make it hostile in this House to encourage this University? He believed there was none that this will injure, but that an establishment like this would be very agreeable in that District. If it was desirable, who could undertake it, who encourage it, like this House? They could not do it themselves. If, then, the step is a proper one, it can never be too soon to commence it, although it may be many years before it may be wanted. The objection may be, that it would be wrong to incorporate a Literary Society; but we have frequent instances of incorporation, and nothing can prove it improper, since no pecuniary aid is required, no grant of money is asked. If it was, I should, like the gentleman before me, (Mr. NICHOLAS,) disapprove of it, but not now seeing reason to object, I shall vote for the report.

Mr. CRAIK.—After the caution the committee had observed in forming their report, to prevent objections, I am sorry they should be charged with things they do not in the least merit. If the report contemplated the raising a fund for the support of this institution from the United States, there might have been some ground for gentlemen's objections; but, as there is not the most distant view of such a thing, I am surprised to hear it objected to. I did not expect it from that gentleman, (Mr. NICHOLAS.) I did not expect to hear him say, that institutions of this kind were not wanted there; it might have come better from gentlemen residing in more distant parts of the United States.

If this subject was now before the House, sir, I should not be against proving, at this time, that it is the duty of the United States to establish a University, and that the sooner it was done the better. But, as this is not the case, as we are only asked to permit its encouragement, by allowing these people to receive benefactions, how can we refuse? Shall we shut the door against individual benevolence? There are appropriations already made to this institution. There is a fund now of fifty shares in the canal, which is now valuable and increasing in value daily. I think the situation for this purpose very good; and the probable increase of the city of Washington will induce many persons to benevolence for this purpose. I know of no situation more central, and believe there is no place of the kind in its neighborhood; and from an established knowledge it would be a very useful and desirable institution, shall vote for it.

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Mr. W. LYMAN.—As far as I can understand, the land which is now to be appropriated for this University is the property of the United States. Does not this look as though the United States are to patronize and support the establishment? If we take this step, I shall very much wonder if our next is not to be called upon to produce money. I do not expect much from the liberality of individuals; and can it be expected that people from the remote parts of the United States will send their children to this Seminary? Surely not; and consequently their money will be lost. It will be a natural source of discontent to them to pay their money merely for others to obtain the advantage. It may be very good for people thereabout, but remote parts cannot derive the least advantage from the institution. We are going quite too fast into this business, without attending to probable consequences.

I think it would have been more proper, if these people had only wanted this power, for them to have applied to the State Legislature of Maryland; it would be more to their interest and duty to

encourage a Seminary if one is wanted in that place. They have sufficient power vested in them to encourage all such laudable undertakings. For us to encourage this would be to do injury, instead of having a number of schools planted in various parts, they are now all to centre in one; and the people are to neglect all to support this one; as others would become very weak.

I flatter myself to have as liberal sentiments on such institutions as other gentlemen, but I do sincerely think small academies are as useful as this institution for a University. The large institutions are generally out of the reach of people in general, and of the middling class in particular. These small academies have produced many eminent literary characters in the country. If it should be necessary at any time to form a Seminary for the use of that District, Congress would not refuse its encouragement; but to draw money for a National University I hope they never will agree. But gentlemen say this is not asked; true it is not at this time, but there is that in the principle that will most certainly lead to it.

Mr. DAYTON (the Speaker) said, if it should ever be the policy of the United States to establish a National University, he was of opinion this was an improper time for making the decision. He did not believe the committee who made the report meant to do more than had been stated; but the effect, he said, would be what he predicted; this measure would be looked upon as an entering wedge, and they should hereafter be told they must go through with it. If gentlemen were prepared to sanction an institution of this kind they would of course do it; he was not prepared to vote for the measure, but should give it his negative.

Mr. NICHOLAS said he had not been convinced by the observations of gentlemen who had spoken in favor of this report that all the mischiefs would not follow this measure which he before predicted. He inquired into the purpose of establishing a National University. The PRESIDENT had said (and the commissioners after him) it was to establish a uniformity of principles and manners throughout the Union. This, he believed, could not be effected by any institution. If, said he, you incorporate men to build a University, are you not pledging yourselves to make up any deficiency? and, as the building must be commensurate with the object, they would have an enormous empty house continually calling upon them for contributions to its support. Whatever moderation had been observed in framing this report, Mr. N. said it was like many others which came before them: it was so covered as not to show half the mischiefs which would attend it. If a plan of education was wanted for that District, let members from that part of the country say so, and he would be ready to afford them every necessary assistance; but he would not think of going into the scheme of a National University.

The district of country from whence it came might stand in great need of seminaries of learning, as had been hinted by the gentleman from Maryland, (Mr. CRAIK,) but their ignorance must continue until they were sensible of their want of instruction. He believed there was no Federal quality in knowledge, and no Federal aid was necessary to the spreading of it. Every district of country was competent to provide for the education of its own citizens, and he should not give his countenance to the national plan proposed, because the expense would be enormous, and because he did not think it would be attended with any good effect, but with much evil.

If a University is wanted for the use of that District, or any other part, Mr. N. said he would give it all the encouragement possible, but he could not agree to go to such great lengths—lengths which were not yet explored.

Mr. R. SPRIGG considered the report before them as of a very harmless nature. The PRESIDENT, he said, had appropriated land upon which to erect the University in question. They were not called upon to sanction that appropriation. His power to give it was full and ample. The thing was done, and he had promised a future donation. The apprehensions of the gentleman from Virginia (Mr. NICHOLAS) seemed to arise from his conceiving they were about to sanction a National University, such as had been recommended by the PRESIDENT. If this were the case, although the Representative of that District, he should not give his vote in support of the measure. On the contrary, he said, they were called upon merely to authorize proper persons to receive donations for a University. What sort of institution this should be, would be for the future consideration of Congress. Mr. S. said he should always be ready to give his support to every measure which had a tendency to spread knowledge throughout the United States, as he believed the progress of knowledge and liberty would accompany each other. The gentleman from Virginia seemed to think this institution would only benefit a small circle. He did not think the State of Maryland would be much benefited by it, as they had already two good universities; but he thought it doing no more than justice to the owners of property in the Federal City that this institution should be encouraged. What was asked of them would not commit them at all for any thing further, and it would be a mean of turning the attention of the people to the support of an institution of this kind. For these reasons, he hoped the House would agree to the report.

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Mr. LIVINGSTON said he had thought, like the gentleman last up, that there was nothing in it but what was perfectly harmless, until, recurring to the law for establishing the permanent seat of Government, that something more might be intended than the eye could at first discover. Mr. L. said, he turned the thing a variety of ways in his mind, and could not account for some of its obscurities. If nothing was intended but a mere incorporation, why not apply to the State that could incorporate such a body? Something further seemed to be intended: public patronage was wanted to support this institution. They were called upon, at a moment's notice, to give their encouragement to this National Institution. It is true, they were called upon from very respectable authority. They were not called upon to appropriate the public funds to this purpose; but how far the commissioners are justifiable in laying out public lands for that purpose, he knew not. He had not the law itself at hand, but he was doubtful about the just disposal of it, if in this manner. This land was for public use. The use of this land was to erect buildings on for the

benefit of Congress; and if these commissioners had power to appropriate it for building a National University on, they had the same power to give it or make use of it for any other purpose. Such institutions are not public, but private concerns.

This, said Mr. L., I view as the effects of the resolution, were it to be adopted; but I would not be thought as in the least reflecting on the motives of the gentleman who brought it forward. I believe it will operate (as a gentleman has justly said) as an "entering-wedge;" and at some future time we shall be told, we must go on—now we have encouraged its institution, we must support it. We shall hear more about it at a future day. Gentlemen tell you, sir, that nothing is intended, but merely to permit its institution. Why cannot they obtain this power which is asked of us of the State where it is wanted? The laws there will permit it, and, most likely, it could be obtained. If this report is agreed to, the time will arrive when this institution will pretend to a just claim on this House for its support; and the reasons they will then urge will have a force which will not be easily repelled.

Mr. MADISON said he was very far from considering, with some gentlemen, that this is a question of right or policy. These ideas are not comprehended in the present question. It is not whether Congress ought to interpose in behalf of this institution or not; it is whether Congress will encourage an establishment which is to be supported entirely independent of them. He did not consider it would ask a single farthing from us, nor that it would pledge Congress to endow the establishment with any support. The State of Virginia thought proper, during the war, to present the PRESIDENT with fifty shares in the Potomac canal, in consideration of his services, which he refused accepting for his own use. He has now offered to give it to this Seminary.<sup>[4]</sup> Some other individuals have likewise destined part of their land for its support, and other benefactions may be expected. The amount of this motion before the committee is whether we will grant power and security to persons to receive such donations in trust for the institution? He conceived it only in this simple point of view, and he thought if it was worthy of patronage, it ought to be from the United States.

The gentleman from New York (Mr. LIVINGSTON) seems to say it is not necessary for Congress to interpose, as the laws of Maryland allow that Legislature power to do it, and they are the most proper. Congress has the sole jurisdiction over that District: it is not with the power of that Legislature. Their power in that District could only operate by virtue of a grant from the United States; although it is necessary, until that District becomes the permanent seat of Government, the laws of Maryland should be in force there. This being the situation, the commissioners applied to Congress to give them the power to receive benefactions.

Another thing which gentlemen had objected to, is its being called a National University. The report does not call it so; it calls it "A University in the District of Columbia;" which, he thought, was materially different. Congress may form regulations for institutions which may be very good, and yet, not be viewed as national institutions. It was in this qualified light (for he wished not to consider it a burden on the nation) he meant to vote for the report.

Mr. SPRIGGS said it had been inquired why the Legislature of Maryland could not have granted the commissioners what they now pray for? He answered that they could make no law for that District which should extend beyond the time at which the seat of Government was to be removed there. He mentioned some instances that had taken place while he was a member of that Legislature. This, he said, accounted for the application of the commissioners to Congress.

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On motion, the committee rose, and had leave to sit again.

## **TUESDAY, December 27.**

DEMPSEY BURGESS, from North Carolina, appeared, and took his seat.

### ***National University.***

The order of the day was called for on the report of the committee to whom was referred the memorial of the commissioners of the Federal City, and that part of the PRESIDENT'S Speech, which referred to the establishment of a National University. The House accordingly resolved itself into a Committee of the Whole on that subject, when the resolution, reported by the select committee, having been read, no gentleman rising on the subject, the Chairman inquired if the committee were ready for the question, and on being answered in the affirmative, the question was put and negatived by a great majority.

The committee rose, and the Chairman reported their disagreement with the select committee.

The House then took up the subject.

Mr. MURRAY rose, expressing his great surprise at the unexpected decision on the question in the committee. He was very much surprised to see the committee so changed, no opposition, and yet the report so quickly negatived; surely gentlemen must have mistaken the question. It is matter of regret such an important subject should have so little consideration. The language of the report is perfectly moderate and just. The gentleman from Virginia, yesterday, gave us to understand that this institution was to draw its support from the National Treasury; but on examining the report I can find no such idea held out or intended; and also he told us this was a National University. The gentleman's observations are grounded in mistake, or it was effected by an imagination of evils, of which there could not be the most distant apprehension. If we refer to the memorial of the commissioners we shall see they ask no money from Congress; they only ask

you to erect a number of gentlemen into a corporate capacity to enable them to receive donations from those who are well disposed towards instituting a useful Seminary in that District; this is no more than they have a right to expect from Congress, and is the duty of Congress to grant. Yet the determination of the Committee of the whole House has been carried against this very desirable and reasonable request. I would again repeat that the language of the memorial is only to enable them to support a seminary of learning in that place, and not a single shilling is asked from the nation. They only want a medium to act upon—an act of incorporation.

The PRESIDENT has generously signified his intention to make a valuable benefaction, not less than £5000 sterling, and the wise and good in all parts of the United States would probably follow his example, particularly in that neighborhood, if Congress would put them in a way to receive it; a building would then be begun and some advances made towards the execution of the institution, in proportion to the fund. Instead of allowing this to be the case, every possible view has been given unfavorable to the plan, and every possible supposition formed, though without grounds, which could tend to blast it. The ideas of gentlemen have been inferred that a large empty house would arise;—that it would draw from the United States funds for its support. It may be possible, but it is no way probable. Is it not more probable that these gentlemen, knowing they cannot expect national support, will keep themselves within the bounds of their funds, if they mean to carry on the institution? Certainly this seems most consistent with the wisdom and prudence of men in that capacity. Nothing is asked of the public in the report of the select committee:—nothing they have a right to ask. I therefore hope, as the request is perfectly reasonable, gentlemen will not be too hasty to oppose such a measure without due consideration.

Mr. CRAIK.—I must confess I feel as much surprised as my colleague on the decision which has just been given in the Committee of the Whole. Some gentlemen who opposed the report yesterday conceived there was some secret poison lurking within it—some dangerous principle not to be discovered on its face, which would some time produce baneful influences—this has been insinuated though not directly said. If so it must come there by accident, or of itself, which those gentlemen must allow if they will give themselves the trouble to examine the true principle of it, and give it a just decision. When we examine the materials of which this report has been formed, viz: the PRESIDENT'S communication on this subject in his Speech, and the memorial of the commissioners;—we should be led by those gentlemen to believe, that this, which is the groundwork of the report, is connected to convey something which may extend further than it seems to carry its object; this perhaps is the secret poison hinted at. Were I in the situation of the PRESIDENT, I am free to confess, had I studied my own feelings and the great use of the institution, I should have recommended it. It has been justly said, that the PRESIDENT, from the impulsive importance of it, has taken this opportunity—this last opportunity to recommend it. He has recommended it with earnestness; which gives an additional proof of his sincere regard for the welfare of his country. I hope this will not be conceived in favor of the idea suggested. The commissioners seemed to have anticipated the objections which have been made to a National University, and have purposely avoided inserting it in their memorial. They have cherished similar ideas which I have, of the eligibility of such an institution, but foreseeing that plan would not be approved, they have relinquished that, and only requested incorporation to enable them to act in trust for the institution. They do not call upon this House to put their hand into the Public Treasury; they seem to have possessed somewhat of the prophetic, to see the necessity of forming their memorial so little objectionable; and yet there is supposed to be danger in this simple request.

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Gentlemen have supposed a responsibility, a peculiar obligation to support it, would be attached to the United States, were they to give this privilege. As well might it be said that Congress, by allowing a bridge to be built, or a road to be cut, would incur the expense, or if it could not otherwise be done for want of money in the applicants, would be engaged to do it for them at the national expense. If there are objections of force in one instance they will apply to the other. If this is denied it proves that District to be wretched outcasts, being denied a request the most reasonable, natural, and just that can be contemplated. Many of the objections urged, indeed most of them, against the admission of this report, do not go so much to the exclusion of the measure, as to the danger of Legislative interference. Gentlemen say, if we move in it—if we put our hands at all to it, we pledge ourselves to effect it. If this is the situation with the people of Columbia, the year 1800 will be a woful year to them; this is an unhappy presage of the jurisdiction to be exercised on that country. If it is inexpedient for that District to have a Seminary of Learning, let gentlemen who could state it with truth, come forward and say so. If the objections of gentlemen are not grounded on the danger of this House pledging itself to support the institution nor on the inexpediency of such a thing in that District, I am at a loss, for my soul, to conceive on what ground their objections are formed. I was surprised yesterday to hear the opposition come from the quarter it did; and am equally surprised to find such an opposition now. In my view there is a very great want of Seminaries of Learning in that District.

If we take a view on the south side of the Potomac, for a considerable extent of country, there is no institution to answer any desirable purpose. There is the greatest probability of a rapid increase in the population. Is it not reasonable, then, that an institution of this kind should be established in that place? And if reasonable at all, are we to wait till the period arrives when the country is thickly inhabited before we commence a building and project the plan? I have long thought that in this young country such a thing was necessary. It should be now begun, to grow up with its growth and strengthen with its strength. We should now lay the corner-stone—the foundation to build upon. Though such a Seminary cannot be established now, it may fifty years hence; and it can never be too soon to commence a good institution. We are not called upon to travel into the fields of speculation for the purpose of finding funds to support this plan; there are

funds which present themselves to view. We only want a grant to secure the benefactions in prospect. The PRESIDENT has employed a handsome benefaction for this purpose; and I much wonder that gentlemen from that part of the Union should oppose measures that would only encourage its reception. When I take a view of the extent of country which lies much in want of a Seminary, I feel surprised that such measures towards its growth should be denied.

If there are any gentlemen here who oppose the advancement and growth of that District which they have taken under their wing, they should come forward and declare it; we then should have ground to account for their conduct. If we are determined to deny these people common justice, we dispirit them. There is no circumstance which can occur that will tend so much to discourage the growth of that State; if we forbear to do them this justice, we exclude them looking up for those common rights which could be enjoyed in any other Territory of the United States. I hope this House will never deny to that people, rising into existence, this small privilege. Is it a strange thing, I would ask gentlemen, for a State to grant charters? I answer, no. And for this State to be denied this privilege only to secure a fund for such an excellent institution, I believe is quite a novel idea. I hope if there are any doubts on this subject, they will lie over for future consideration; and I hope we shall be careful not to damp the attempts of that people by a conduct which could not be refused by any State in the Union; and that Congress should refuse it without assigning a sufficient reason is unprecedented. I hope it will lie over for future consideration, and not be refused so quickly.

It was moved that the subject should lie over until the second Monday in January.

The question for postponement was put and carried—ayes 37, noes 36.

### **WEDNESDAY, December 28.**

#### ***Relief to Savannah.***

Mr. W. SMITH wished the House to resolve itself into a Committee of the Whole on the resolution, which he had the other day laid upon the table, proposing to afford some relief to the sufferers by the late fire at Savannah. For his part, he said, he could see no reasonable objection which could be made to so benevolent a proposition. A gentleman in the House had got a plan of the ruins of the city; it was, indeed, a most distressful scene. There had never occurred so calamitous an event of the kind in the United States, or which had so strong a claim upon the General Government for relief. He said they had granted assistance to the sufferers by fire at St. Domingo; and surely if it were justifiable to grant relief to foreigners in distress, it was at least equally so when the objects were our own citizens. If gentlemen had objections to the measure, he wished they would state them. The sum with which he should think of filling up the blank would not be such as to materially affect our finances.

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Mr. MILLEDGE said, if the unfortunate had any claim upon the Government for relief, none could have greater than the citizens of Savannah. Few houses, he said, were remaining of that city, and those few were the least valuable. Not a public building, not a place of public worship, or of public justice—all was a wide waste of ruin and desolation, such as scarcely could be conceived, and as it were impossible to describe. He hoped some relief would be afforded to distress so unexampled.

Mr. COOPER said, it was a very unpleasant thing to come forward to oppose a measure of this sort; but, when they looked into different parts of the Union, and saw the losses which had been sustained at New York, Charleston, &c., it would appear only reasonable that, if relief was afforded in one case, it ought to be extended to another; and, if this resolution were agreed to, he should certainly move to have some relief afforded to New York. He hoped, however, the business would not be proceeded with. If the principle were a good one, it would bear going through with; but it would be seen this would, on the contrary, prove a dangerous one. What they did to-day, he said, should bear repeating to-morrow. If they were to make good losses by fire, there would be no occasion for insurance companies, nor any inducement to build with brick in preference to wood. He felt as much as others for the distresses of the people of Savannah, but was of opinion it was not a proper business for the interference of that House.

Mr. W. SMITH agreed with the gentleman last up that this would be considered as a precedent; he agreed that they ought not to do that to-day which ought not to be done to-morrow. It might be brought forward as a principle upon which we should be bound to relieve New York or Charleston; but the question is, whether this is not a distinct case? This is a case awfully distinguishable from all others; and if a case like the present will not be often found, this House are certainly not bound to grant relief in others, though in this. He trusted such a case would not be again found to solicit relief. Charleston, he said, had experienced a great calamity by fire, but had not asked relief of that House; and it was probable if it had it would not have been granted, because its distresses are not so great. In a distressing situation like that now before us aid can be afforded by the many towards alleviating the distresses of the few. Hence arises the advantages from public contributions; and would that House, he asked, refuse their assistance? It would not be felt by the public purse. It has been said, to adopt this resolution would have a dangerous tendency, inasmuch as it would encourage a neglect of insurance. But the evil has come; the unfortunate circumstance has occurred; four-fifths of that unfortunate city has been destroyed, and their distress is great. Such a circumstance may not again happen for a century. The amazing value of £500,000 sterling damages is done; and shall we refuse to give a trifle to assist, with others, towards removing the present distressed situation of some of the unfortunate

inhabitants? I trust not. It is not asked of the House to indemnify the loss of these sufferers. No, sir; it is only asked that the General Government should give the trifling sum of fifteen or twenty thousand dollars to afford these people some relief.

The question was then put for the House to resolve itself into a Committee of the Whole on the subject, and lost—yeas 38, nays 39.

It was then moved that the committee be discharged from the further consideration of the subject.

Mr. W. LYMAN hoped the business would not be disposed of without going into a Committee of the Whole. He thought more respect was due to the feelings of the sufferers than to dispose of the subject without discussion. He hoped the committee would not, therefore, be discharged.

Mr. HARTLEY trusted the committee would not be discharged. He believed the destruction of Lisbon by an earthquake did not occasion greater mischiefs than the late fire had done to Savannah. The Legislature of Pennsylvania, which had no greater power than the General Government to afford relief to these sufferers, had given \$15,000. Indeed, he thought it more the province of the General Government than of State Governments to afford relief in such cases.

Shall we, said he, treat the citizens of Savannah with more disrespect than the people of St. Domingo? This House then gave \$10,000 or more for the relief of those people, and shall we not now have liberty to discuss the subject, whether to give or not to our own citizens? Although, he said, he would not wish to draw a precedent from English transactions, yet he would observe that their generous benevolence to the unfortunate sufferers by the earthquake at Lisbon, though only commercially acquainted was worth imitation, to whom they gave £100,000. Mr. H. was sorry gentlemen should endeavor to prevent this by bringing in the calamities in New York and Charleston. Those were only personal losses; this was a general conflagration, a catastrophe unprecedented; and he hoped, for the sake of humanity and national honor, this House would never withhold relief.

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Mr. SPRIGG hoped the committee would not be discharged, but that they would go into the business at an early day. He said, he had not made up his mind how far they had power to afford relief in a case like the present. There was an instance in the relief afforded to the daughters of the Count de Grasse, as well as that given to the sufferers at St. Domingo. He wished for further time to make inquiry on the subject. If there were not insuperable objections to the measure, he hoped relief would be afforded.

Mr. HARPER acknowledged that it was sound policy in Government to keep a strict eye over its Treasury; but this watchfulness ought not to go to the rejection of all claims, however just and proper. He thought the tenaciousness of approaching the Treasury was carried too far in the present instance. He would ask, what was the use of society if it were not to lessen the evils of such calamities as the present, by spreading them over the whole community, instead of suffering them to fall upon the heads of a few individuals? He thought it the duty of Government to alleviate such peculiar distress as the present. It was said this would prove a dangerous precedent, and prevent necessary provisions against fire. If they were about to make good the whole of the £500,000 destroyed, there might be some ground for the alarm; but when fifteen or twenty thousand dollars only were contemplated to be given, no great danger could surely be apprehended. The fires at New York, Baltimore, and Charleston, had been mentioned; but what were the means of Savannah when compared with New York? Not as one to twenty. New York was rich enough to bear her loss, but this could not be said of Savannah, all the inhabitants of which were reduced to poverty and distress. They could not, therefore, get relief from their fellow-citizens; and to whom could they look for protection and relief with so much propriety as to the General Government? When compared to Charleston, the loss of Savannah was of ten times the magnitude as that experienced by it. The loss of Charleston was alleviated by a subscription of \$30,000 from its own citizens, besides the handsome contributions which were made in other parts of the Union; but there was no property left in Georgia to afford relief to the sufferers. Suppose, said Mr. H., we were to give thirty thousand dollars towards this loss, what would it be when divided among the whole Union? And yet it would be enough to draw down countless blessings upon us from these objects of distress. He hoped, therefore, the committee would not be discharged. It was a case of peculiar and almost unprecedented affliction, such as he hoped would not again occur; and a decision in their favor would be applauded by every man, woman, and child in the Union.

The question was then taken for going into a Committee of the Whole on the subject, and carried by a considerable majority, there being 45 votes for it.

The House accordingly resolved itself into a Committee of the Whole, when

Mr. W. SMITH said, he did not propose to fill up the blank at that time. If the resolution was agreed to, the sum could be put in when the bill came into the House. He himself should not think of proposing to fill the blank with more than 15,000 dollars. This, it was true, was but a small sum, but it would afford relief to the poorer class of sufferers, and others could not expect to receive the amount of their losses. He should move that the committee might rise and report the resolution.

Mr. HARTLEY called for the reading of the act allowing relief to the sufferers by fire at St. Domingo. [It was read. It allowed 15,000 dollars for their relief, which sum was to be charged to the French Republic, and if not allowed in six months, the relief was to be stopped after that time.]

Mr. MACON wished the act allowing a sum of money to the daughters of Count de Grasse to be read also. He did not think either of them in point. The sufferings of the people of Savannah were doubtless very great; no one could help feeling for them. But he wished gentlemen to put their finger upon that part of the constitution which gave that House power to afford them relief. Many other towns had suffered very considerably by fire. He believed he knew one that had suffered more than Savannah in proportion to its size: he alluded to Lexington in Virginia, as every house in the place was burnt. If the United States were to become underwriters to the whole Union, where must the line be drawn when their assistance might be claimed? Was it when three-fourths or four-fifths of a town was destroyed, or what other proportion? Insurance offices were the proper securities against fire. If the Government were to come forward in one instance, it must come forward in all, since every sufferer's claim stood upon the same footing. The sum which had been given to the sufferers at St. Domingo was to be charged to the French Republic, and that given to Count de Grasse's daughters was in consideration of their father's services. But New York had as great right to come forward and expect relief as Savannah. He felt for the sufferers in all these cases, but he felt as tenderly for the constitution; he had examined it, and it did not authorize any such grant. He should, therefore, be very unwilling to act contrary to it.

Mr. RUTHERFORD said, he felt a great deal of force on what gentlemen had said. There were two circumstances which were perfectly conclusive in his mind. He saw it our duty to grant relief from humanity and from policy. Savannah was a city of a minor, helpless State; it was a very young State, yet it was a part of the Union, and as such, was as much entitled to protection as any State under such a direct misfortune; and it became Congress to alleviate their great distress. They have lost much; they have, many of them, lost their all. To say we will not assist to relieve, when almost every State in the Union is putting their shoulders to support these people's burden, is wrong. The State of Pennsylvania has done itself immortal honor in the relief it has afforded, and shall we not help to support this part of the family in their distress? This State is a branch of the great family of the Union; it would be, in my idea, extremely inconsistent to neglect them. He hoped the motion would be adopted, and he hoped it would never be said that the General Government refused to provide help in such a poignant distress occurring in one of its principal towns.

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Mr. HARTLEY said, that the gentleman from North Carolina (Mr. MACON) had voted against both of the bills which had been referred to. He knew no difference between the Constitution of the United States and that of Pennsylvania, yet a vote in their House had been carried unanimously. He thought the law for the relief of the sufferers of St. Domingo perfectly in point; for, notwithstanding what was said about negotiation, the distress of those people had consumed all the money before the six months were expired. If ever there was a case in which they could grant relief, this was one. The losses at New York and Charleston would bear no comparison with that of Savannah; they were rich and flourishing places, whilst Savannah was a small city of a new State, and the sufferers generally poor. He hoped, therefore, the resolution would be agreed to.

Mr. MOORE said, the laws which had been adduced as precedents were not in point; for the one sum we were to have credit with the French Republic, and the other was in consideration of past services. The distress of the people of Savannah was not an object of legislation; every individual citizen could, if he pleased, show his individual humanity by subscribing to their relief; but it was not constitutional for them to afford relief from the Treasury. If, however, the principle was adopted, it should be general. Every sufferer had an equal claim. Lexington, in Virginia, contained only one hundred houses, and all except two had been destroyed by fire. He should therefore move to add Lexington to Savannah in the resolution before them; though he would observe, as he did not approve of the principle, he should vote against them both.

Mr. VENABLE did not see the difference between the two cases which was so distinguishable to the gentleman last up. Because Savannah was a commercial city, its distress, according to that gentleman, was indescribable, but when a like scene was exhibited in a small town, it was no longer an object which touched his feelings. His humanity went no where but where commerce was to be found. He asked whether the United States might not as well lose revenue in the first instance, as put money into the people's pockets to pay it with? Humanity was the same every where. A person who lost his all in a village, felt the misfortune as heavily as he who had a like loss in a city, and perhaps more so, since the citizen would have a better opportunity by means of commerce of retrieving his loss. He was against the general principle, as he believed, if acted upon, it would bring such claims upon the Treasury as it would not be able to answer.

Mr. MURRAY thought the gentleman from Virginia (Mr. VENABLE) carried his idea of relief too far. He had no idea that that House, or any Legislature, could undertake to make good individual misfortunes. He was of opinion that the lines which separated individual from national cases, were very observable; the one was happening every day, the other seldom occurred. When a large town is burnt down, and that town is an important Southern frontier town, it is surely a national calamity, and has a claim upon the humanity of the country. It was true, the claim was not of such a nature as to be brought into a Court of Justice, but it was a calamity in which the whole nation sympathized. It was not only a claim upon the humanity of the nation, but also upon its policy, as, by restoring it to its former situation, it would be able to bear its wonted part in contributing to the revenue of the country, and would continue to carry population, arts, and wealth to that distant part of the Union. In case of war, Savannah was a most important place. It was necessary the Union should have a town in that situation, and he could not consider any money which might now be advanced as given away, but as lent to that town, which might enable it, in a few years, to resume its former situation, whilst the withholding of it might prevent its ever rising from its present ruins.



Mr. KITCHELL was opposed to the amendment and to the resolution itself. He had doubts if even they were to give the citizens 15,000 dollars, as was proposed by the gentleman from South Carolina, whether they should not, instead of service, be doing them an injury; because, if the General Government were only to give this sum, the State Legislatures would proportion their donations accordingly, and probably give much less than they would otherwise have done, if they had not had this example before them. He had doubts as to the constitutionality of the measure; he thought the constitution did not authorize them to make such use of public money; however, he thought it might be a very flexible instrument; it would bend to every situation, and every situation to that. He thought, in this instance, if we grant money, while we attempt to serve, we shall eventually injure. As to what the gentleman from Virginia says of Lexington, Mr. K. thought it had been fully relieved; however he should vote against both propositions.

Mr. PAGE said, that he was sorry that his colleague had made this amendment, as he had done it with a view to defeat the original resolution. If humanity alone were to direct his vote upon this question, and if the amendment had been proposed more early and singly, he might have voted for it. But that not being the case, it, as well as motives of general policy, influenced him in favor of the original motion. He had reasons which could not apply to the amendment. He should vote against it. He was bound by order to confine himself to the single question before the committee. This is, Shall the amendment be received or not? He declared it as his opinion that the case of Lexington ought not to be connected with that of Savannah, which had been, as stated by the member from South Carolina, materially different. He was restrained by order from entering into the merits of the original resolution, but he thought that he had a right to hint at the motive of policy which would apply to the resolution, and not to the amendment. This was, that Savannah being an important place, it would be wise and politic to prevent its revival from being owing to any other aid than that of the General Government of the United States. It ought not to be under obligations to individuals, or single States, and much less to a foreign power.

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Mr. HARTLEY hoped the amendment would not prevail. If the loss of the people at Lexington had been greater than they could support, they would doubtless have applied to the Legislature of Virginia, but he had not heard of any such application having been made. He agreed with the gentleman last up, that the General Government ought to relieve distresses of this kind.

Mr. MURRAY inquired when the fire happened at Lexington?

Mr. MOORE answered, about nine months ago. He thought it was the duty of the United States first to pay the claims which were made upon them by distressed soldiers and others for past services, who were denied justice because they had passed an act of limitation. If they were to act from generosity, he said that generosity ought to be extended universally. It was a new doctrine that because a sufferer by fire did not live in a commercial city he was not equally entitled to relief with the inhabitants of a city, and that though such persons were called upon to contribute to the losses of others, they could have no redress for their own. This seemed as if favorite spots were to be selected upon which special favor was to be shown. He was opposed to all such humanity.

Mr. CLAIBORNE was against the amendment, but he hoped the resolution would be agreed to. He was sorry any gentleman should propose an amendment like this, purposely to defeat a motion which would tend to relieve such sufferers as those of Georgia must be. He was not certain whether he could vote upon constitutional grounds or not. It was a sharp conflict between humanity to that suffering country and the constitution. If any case could be admissible, he thought this could; it ought to be remembered, that that part of the Union has suffered much. Georgia was a slaughter-pen during the war, besides being continually harassed by the hostile Indians. He thought 15,000 dollars would not be ill-spent, as from motives of policy it would be of more advantage to the United States from the quick return the revenue would gain. Indeed, if constitutional, he hoped the sum would be made more than proposed. These are your fellow-citizens who are suffering, and if not speedily relieved, the whole interest will be involved. If in order, he would vote that the committee rise, to enable him and, perhaps, many others, to consult whether relief could be constitutionally granted? He said he felt a great propensity to do it.

The question was put on the amendment and negatived—there being only 26 in favor of it.

Mr. BALDWIN said, he had doubted whether to make any observations on this motion; not that he was insensible to the calamitous situation which had been the cause of it, but from an apprehension that it might be thought he was too strongly affected by it. Though it might be disagreeable to one to give his judgment and urge his opinions, when his own relation to the question was different from that of others, yet some of the reflections might not be useless to those who were to determine it. He was sure it was not a want of disposition to relieve the unhappy sufferers that had or would draw forth an observation on this occasion, but merely doubts as to the powers of the Federal Government in money matters. The use of a written constitution, and of that provision in it which declared that no money should be drawn from the Treasury but under appropriations made by law, was very manifest from the caution which it gave in the expenditure of public money and in laying burdens on the people; yet he believed it impossible to obtain absolute directions from it in every case. The objection is, that Congress is empowered to raise money only to pay the debts and to provide for the common defence, and the other purposes, exactly as specified in the 8th section. The objection has often been made, but many laws have passed not exactly specified in that section. He mentioned the private acts before alluded to, the law for establishing light-houses, to aid navigation in the improvement of harbors, beacons, buoys, and public piers, establishing trading-houses with the Indians, and some others, to show that though the constitution was very useful in giving general directions, yet it was not capable of being administered under so rigorous and mechanical a construction as had been



sometimes contended for.

Mr. GILES said, if the present resolution passed it would make them answerable for all future losses by fire. The small sum of \$15,000 was not of any consequence when compared with the establishment of a principle of that House acting upon generosity. He believed that neither the money nor humanity, but the establishment of the principle, was the thing aimed at. The unanimity with which a resolution had passed the Pennsylvania Legislature, was a proof that they believed they had the power to pass such a law. It was said the General Government possessed the authority. The gentleman from Georgia had said that "affairs of men" made it necessary to depart from the strict constitutional power. For his part, he did not think they ought to attend to what "the affairs of men" or what generosity and humanity required, but what the constitution and their duty required.

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The authority of that House, he said, was specified, beyond which they ought not to go. This was a principle not within the constitution, but opposed to it.

There had, he said, been several cases introduced. That of the sufferers of St. Domingo was not a case in point. They looked for a reimbursement of the money. He believed it had been repaid. And when the daughters of the Count de Grasse had \$4,000 given them, it was thought to be necessary to introduce their father's services as a consideration. His feelings, he said, were not less alive to the calls of humanity than those of other gentlemen; but, by granting the money required, they should go beyond their powers, and do more real injury than good.

Mr. CLAIBORNE said, the more he heard, the more he found himself in favor of the resolution. By the discussion it had undergone, he was inclined to think it was, perhaps, reconcilable with the constitution; perhaps it was, he said, for he was not certain. The annual revenue, he said, of that place, was seventy thousand dollars to the United States, besides the great consideration of it as a frontier town. He had compared the advantages and disadvantages with respect to its relief in his own mind, and thought it would be highly consistent with policy to grant relief. It was a place which had been in great distress, and had great struggles with enemies in times past. Can it be possible to suppose that we have not power to assist in erecting that place again, and putting it upon a footing to do good to the United States by a return of her revenue? Certainly not. Would the committee be willing that Savannah should be erased from the revenue? Are they willing to let it rest, and lose it? This is impossible. Then, surely, it becomes policy to give aid towards its re-erection. Unless the people do receive some aid, it will be a long time before seventy thousand dollars will be again produced from the revenue of that place.

The committee then rose and reported their disagreement, when the House took it up.

The question was then taken, and the yeas and nays demanded, "that the House do agree with the Committee of the whole House in their disagreement to the motion," and resolved in the affirmative—yeas 55, nays 24, as follows:

YEAS.—Theodorus Bailey, David Bard, Thomas Blount, Theophilus Bradbury, Richard Brent, Samuel J. Cabell, Gabriel Christie, John Clopton, Joshua Coit, Isaac Coles, James Davenport, George Dent, Abiel Foster, Jesse Franklin, Nathaniel Freeman, jr., Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Chauncey Goodrich, Christopher Greenup, Roger Griswold, William B. Grove, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, John Wilkes Kittera, Edward Livingston, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Josiah Parker, Francis Preston, John Read, Samuel Sewall, Nathaniel Smith, Israel Smith, Richard Sprigg, jr., William Strudwick, John Swanwick, Zephaniah Swift, Richard Thomas, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, and John Williams.

NAYS.—Abraham Baldwin, Dempsey Burges, Thomas Claiborne, William Craik, George Ege, Dwight Foster, Henry Glenn, Andrew Gregg, Robert Goodloe Harper, Thomas Hartley, William Hindman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Page, Elisha R. Potter, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Jeremiah Smith, Isaac Smith, and William Smith.

## THURSDAY, December 29.

GEORGE HANCOCK, from Virginia, appeared, and took his seat.

### *Canadian Refugees.*

Mr. WILLIAMS moved for the order of the day, that the House resolve itself into a committee on the reports of committees to whom were referred the petitions of sundry refugees from Canada and Nova Scotia.

The first resolution read from the last report of the select committee on this subject, was in these words:

"*Resolved*, That the prayer of the Petitioners, Joseph Green and others, from Canada, praying a bounty in lands and other pay, for services rendered in the late war with Great Britain, ought not to be granted."

This resolution was agreed to. The second was thus:

"*Resolved*, That a tract of land, not exceeding — acres, be laid off north-west of the Ohio River, beginning at the mouth of the Great Miami, and extending down the Ohio, not exceeding three times the breadth in length, be immediately appropriated to compensate the refugees from the British provinces of Canada and Nova Scotia, pursuant to the resolves of Congress of the 23d of April, 1783, and the 13th April, 1785."

Mr. WILLIAMS hoped the situation of the land would not be mentioned in the resolution; there were many circumstances that would render it unnecessary and improper.

Mr. HARTLEY wished to know where the land was to be, because the value of the land in different places was various; he thought they ought to have land: he would not be thought to object to the resolution.

Mr. VENABLE did not think it necessary to mention at this time what land should be appropriated for this purpose. A bill would be introduced in a few days, it could then be determined. If there were objections to appropriate the land mentioned, he hoped gentlemen would then propose a spot that would suit every conveniency better. These people, he said, ought to be satisfied: it was time they were.

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Mr. DAYTON said, that the Chairman of the committee said there was no land near Lake Erie of that description belonging to the United States; he wished to know what foundation the assertion had?

Mr. GREENUP said, the committee had made what inquiry they could on the subject, of persons well informed, who told them there was no land belonging to the United States of that description.

Mr. SITGREAVES would vote for striking out the clause as it stood, not from any knowledge he had on the justice of the claims, but, if just, satisfaction should be given. The committee had not reported as to the value of land necessary to be given; the value of land was proportioned to its different qualities and location; he thought it would be as well for these people, to give them military land warrants, and let them locate by lot: this had heretofore been the method, and he thought it would be as advantageous to them as any, and avoid many difficulties with respect to the grant.

Mr. MACON hoped the question would be divided; he liked the proposition of the gentleman last up, to strike out, and insert the words proposed; he therefore would wish the committee to rise, and report progress; or, if the House do not adopt the substitute, he hoped it would be recommitted.

Mr. DAYTON moved to strike out the words relative to location, and substitute the following resolution:

"*Resolved*, That provision ought to be made by law for granting donations of land to Canadian and Nova Scotia refugees, in conformity to the resolves of Congress of the 23d of April, 1783, and the 13th of April, 1785."

This resolution was adopted.

The third was—

"*Resolved*, That five hundred acres of land be granted to each refugee from Canada and Nova Scotia."

This resolution was attended with three explanatory restrictions. It passed, and the Chairman read the first of these rules, which was, "that the applicant shall make proof, before some Court of record, of his actual residence in one of the provinces aforesaid, previous to the — day of —."

Mr. GREENUP supposed this was meant merely as the outlines of a plan to be completed when the bill was brought in; at this time it was necessary that instruction should be given to the committee that they may bring in a bill consistent with the will of the House.

Mr. DAYTON objected to this, and the two following clauses. He objected also to the resolution for an indiscriminate grant of five hundred acres of land to each refugee. Some of these people would be found to deserve more and some less, in proportion to their exertion and sufferings. Some might have lost large property, or have had large families. If Mr. DAYTON had observed what the committee were doing, he would have objected to the passing of that clause. He likewise opposed the present one. This clause and the remaining two were negatived.

The Committee of the Whole then rose. The Chairman reported progress. The House took up the report. The first resolution and the second, as altered in the committee, were agreed to.

The question on the third resolution was then put.

Mr. MACON thought that it would be exceedingly improper to grant an equal quantity to each; it ought to be entirely circumstantial.

Mr. GREENUP was of the same opinion; he said some of these people had suffered more than others. The circumstances of some were such that they were in irons, in close confinement twelve or fourteen months, many of them had the warrant signed for their execution, and a variety of cruelties were exercised: these distresses required consideration.

Mr. BALDWIN hoped it would be struck out; the House should not go into particulars of the quantity

to be given, or the circumstances of the persons; he had seen great difficulty attending these specifications. He did not like this loose way of doing business; they need not open land offices for that purpose; some way would be found out to give the people satisfaction.

Mr. WILLIAMS hoped the committee would not be restricted.

The question on the third resolution was then put, and lost.

A committee was then appointed of Messrs. GILMAN, WILLIAMS, and GREENUP, with instructions to bring in a bill pursuant to the resolutions as amended.

### ***Kidnapping Negroes.***

Mr. SWANWICK called the order of the day on a report of the Committee of Commerce and Manufactures, made the last session, on a memorial from the State of Delaware, respecting the kidnapping of negroes and mulattoes. The House accordingly resolved itself into a Committee of the Whole on the subject.

Mr. SWANWICK said, that there was a mischievous practice in use of carrying these people away from the place of their residence, by masters of vessels, and selling them in other parts. The plan of the committee was to get instructions from the House to bring in a bill making it necessary for every master of a vessel to have a certificate of the number and situation of any negroes or mulattoes he may have on board. He hoped the measure would not at all be opposed, as it only prevented thefts in this case.

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Mr. COIT wished to know whether it was necessary for the United States to intermeddle with this? He wished the report had been more satisfactory, and stated the principles upon which it was formed with more precision. The evil, he doubted not, existed, but the law might create a greater evil than that it was intended to cure. It appeared to him that the laws in the several States were fully adequate to the subject without further provision; he was not ready to give a vote on it either way at present.

Mr. SWANWICK said, the report was grounded on an application from the Legislature of Delaware. [Mr. S. here read the memorial from that State to Congress.] The practice, he said, was very injurious and dangerous to that State, and he hoped a remedy would be attempted, as it was in the power of Congress to provide one by this method; some of the States had made an attempt to remedy this evil, but their laws were broken with impunity. If the resolution of the committee passed, he should move that the committee bring in a bill in pursuance thereto.

Mr. SWANWICK said, the laws of the different States forbade the stealing of negroes; but they had no remedy that would take effect out of their own State: and although each had effect in their own State, yet they had no power on the water. The intention of the present measure was to oblige masters of vessels, when they cleared out of any ports in the Delaware, when they took any negro or mulatto on board, to have a certificate of their being free. The situation of the State of Delaware, communicating with both the Delaware and Chesapeake, was, in this respect, particularly exposed to insult and injury; but this remedy, he thought, would be effectual. The gentleman last up wished the committee to rise, in order to recommit it: he should vote for it if the gentleman was willing to add, "to bring in a bill." The gentleman was in the committee, if he had stated his objections there, it might have saved time.

Mr. MURRAY wished to know what was fully meant by the idea of preventing kidnapping. He confessed he did not rightly understand the meaning of the word. Was the intention of the committee to have reference to the taking of free negroes and selling them as slaves, or the taking slaves to make them free?

Mr. SWANWICK said it was intended to prevent both evils. It was intended to prevent their being stolen from their masters; and, also, to prevent the power of the master taking them to the other States to sell them. This measure, he thought, would prevent both. The State of Maryland had taken measures to prevent it themselves; they had made it a heavy penalty to take a negro out of the State; but that is not effectual to prevent the evil now complained of. This was meant to prevent the practice of examining ships before they sailed and when they arrived.

Mr. W. SMITH wished the committee to rise; not with a view of recommitting the report, but to get rid of the business altogether. The subject, he said, involved many serious questions; it required very serious consideration, and he wished it had never come up. It was a question with him how far Congress had a right to meddle with it at all. He felt alarmed on the subject as brought from that State. He considered it as a kind of entering-wedge, as a gentleman had lately said, on another occasion. It was altogether a municipal regulation, and not at all connected with trade or commerce, and therefore ought to be left to the State Legislatures to settle. He did not think the constitution allowed that House to act in it.

Gentlemen had said, that the laws of the States took no effect on the waters. This, he thought, was founded on a mistake. The laws of the States could prevent robbery on water as well as on land, if within the jurisdiction of the United States. He hoped the committee would rise, and dismiss the subject.

Mr. ISAAC SMITH thought the gentleman knew not the proper meaning of the report. It was not to make a law against stealing merely, but against its being done successfully; many instances, he said, had occurred, where they had been hid many days on board the ships and taken away in the night to the West Indies, and other parts of the world to sell them. It was impossible that the existing laws of the States should prevent this fraudulent practice: the intent of this law was to

prevent this practice; by being examined, and forced to take certificates along with them, it could not be easily done. The particulars of the remedy would be more readily seen when the bill was brought in; it would explain itself; it then might be modified, altered, or rejected altogether. He thought it could give no offence or cause of alarm to any gentleman; and he was sure it was no way contrary to the constitution.

Mr. MACON wished the committee to rise, and not have leave to sit again. He began to see more of the impropriety of the measure than before, and for the same reasons as the gentleman from South Carolina, (Mr. SMITH.)

Mr. SWANWICK said, this House had ascertained a certain proof, by which our seamen are known, by giving them a certificate of their citizenship, specifying their person and freedom, which had operated against impressment: and was it not equally necessary, and would it not be equally competent, to protect a man from injuries to which his color has exposed him? Our unfortunate negroes and mulattoes are exposed by their color to much insult. In some places, he said, they were so exposed, that color alone was evidence of slavery. He would not enter into the question, whether all ought to be free, because it was not immediately before the House; but if these people were black or white, if free, they ought to be protected in the enjoyment of their freedom, not only by State Legislatures but by the General Government.

Mr. MURRAY did not expect to have raised the sensibility of the gentleman last up. It really arose from his ignorance, he said. He wished to know the origin of the matter; he did not know whether it had originated in a memorial, or whether it came from the humanity of some patriotic member, unsolicited. Great and manifold evils did exist in this point; he meant to make a motion on the subject, as Maryland felt heavily from the practice. He confessed he was not sufficiently acquainted with the English language to know the proper meaning of the word *kidnapping*; he therefore wished to know if it extended to the object he had in view. He declared he did not wish to encourage the harboring of negroes; far from it; he wished to prevent it. He did not think the law extended far enough on that point; at present, negroes, through the influence of their own minds, or the insinuations of others, or both, frequently leave their masters, and are harbored by other persons. The law takes no notice of this, except it can be proved that the negro is some person's property, and has absconded: this is very difficult to prove; therefore great evils attend its lenity. 'Tis true, if it can be proved that the negro has absconded and was harbored, there was a very heavy penalty inflicted; but, he said, this was difficult to prove. This, he owned, was his *insinuation*, as the gentleman termed it; and upon this subject he meant to claim the attention of the House. This evil, he said, might arise from the false philosophy and misplaced philanthropy of the advocates of emancipation. He was ever willing to give the question a fair trial, and thought himself bound to thank the gentleman for his extreme benevolence in advocating it.

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Mr. SWANWICK, to satisfy the gentleman from Maryland, told him, that the subject came before the House from the State of Delaware.

Mr. W. SMITH said, he did not know how far the committee should go, he should not vote for the matter to go into the committee. He said, it was that kind of business which, by the constitution, was to be left to the different States, he could not agree to the subject going any further. The observations of the gentleman from Pennsylvania had convinced him that that House ought not to interfere with the individual States on the subject; the interests and policy of the different States were so various, that it would be a dangerous thing to meddle with. He thought it an improper question for discussion; he conceived it would be sound policy not to touch it in that House. The gentleman had gone too far to make use of the word *emancipation*. He feared lest the use of it should spread an alarm through some of the States. It might imperceptibly lead from step to step till it ends in mischief.

Mr. NICHOLAS hoped the business would not be dismissed. We, said Mr. N., who reside in the Southern States, are unfortunately possessed of such a kind of property as has a considerable odium attached to it; but, if we unfortunately hold slaves, we ought not to contribute to the making slaves of free men, but I would wish to establish them in their freedom. If we can give relief as the thing exists, let it be; by all means do it, whether it incur the pleasure or displeasure of some of the slaveholders. He hoped the subject would have full investigation.

The question was then put for the committee to rise. Fifty-four members rising in the affirmative, it was carried.

Mr. SITGREAVES then moved for the Committee of the Whole to be discharged from the further consideration of the report; this, he said, was in order to make way for another motion to refer it back to the committee, to report by bill or otherwise.

The question was put, and the committee discharged.

Mr. SWANWICK moved that the business be recommitted to the Committee of Commerce and Manufactures, to report by bill or otherwise.

Mr. COIT wished the subject to be postponed for further consideration before it was sent to the committee. He had doubts as to the propriety of sending it at all. He thought it had not had that discussion a subject so important required.

Mr. W. SMITH said, he believed this was the first time it was considered in the House. It had been tried in a committee but never taken up by the House, and now gentlemen wished to send it back to the committee, with instructions to bring in a bill. The Committee of Commerce and Manufactures was considerably deranged since last session, when this business came before them; many new members were added, and it required more information before it could come to

the conclusion prescribed.

Mr. SITGREAVES said, if any one good purpose could be derived to the House or to the gentlemen, he would not oppose it; but he was at a loss to know what good object could be attained by a delay. With respect to what had been said by the gentleman, (Mr. SMITH,) that the committee were forced to bring in a bill, he was surprised that such an idea should be formed. If that committee report a bill, this House is not even pledged to pass it. When the subject is sent to the committee with that instruction, can it be conceived that committee is forced to report a bill? There is no such thing intended nor included in the words, as either this House should be pledged to pass a bill, or that the committee should report one. The object is, that the House, through the medium of the committee, should have a plan prepared for their consideration, and the word "otherwise" leaves the committee to exercise its own discretion as to the report.

The gentleman from Connecticut, with a prudence and consistency highly becoming, wishes time to think on the subject. But how is that gentleman to have foundation for his reflections until a bill is drawn? Mr. S. did not know what were the resources of that gentleman's mind, but for himself, he must own that in all the attitudes in which this subject had presented itself, he could not distinctly see the plan. One gentleman had said there was no remedy the United States could apply but what was incompatible with the laws of the individual States. Mr. S. presumed that until he saw the mode to be adopted, he could not say whether it was easy or difficult. On the whole, he thought to postpone the subject could answer no good end, while it might delay the object, and do injury.

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Mr. COIT said, very probably the resources of his mind may not be equal to that gentleman's, he therefore wished the subject to be delayed that he might have time to get into the knowledge of the business.

Mr. COIT's motion for postponement was then put and carried—yeas 46, nays 30.

### ***Hugh Lawson White.***

Mr. BLOUNT then called for the order of the day on the report of the Secretary of War on the petition of Hugh Lawson White, a soldier under General Sevier, against the Indians. The House accordingly resolved itself into a Committee of the Whole.

The following report from the Committee of Claims was then read:

That the claim set forth in the said petition, is intended to establish a principle that will apply to the whole of the militia which were called out under Brigadier General Sevier, in 1793, to act offensively against certain Indians south-west of the Ohio.

That the expedition against these Indians, as appears from the muster-rolls, comprehended a period of above five months, or from the 22d July to 31st December, 1793.

That it was undertaken without authority derived from the President, under the laws of the United States, and for the avowed purpose of carrying the war into the Cherokee country.

That the tenor of the instructions from the Department of War to the Governor of the South-western Territory forbade offensive operations.

Having given these facts, it may be proper to add, that it appears, by a recurrence to official papers, that the Indians had greatly perplexed and harassed by thefts and murders, the frontier inhabitants of Tennessee; and previous to the service, for which compensation is demanded, had shown themselves in considerable force, and killed at two stations (one of them within seven miles of Knoxville) fifteen persons, including women and children: that it must rest with Congress to judge how far these aggressions of Indians, and such other circumstances as can be adduced to the parties, constitute a case of imminent danger, or the expedition a just and necessary measure.

Mr. A. JACKSON<sup>[5]</sup> said, by a recurrence to the papers just read, he doubted not it would appear evident, that the measures pursued on the occasion alluded to were both just and necessary. When it was seen that war was waged upon the State, that the knife and the tomahawk were held over the heads of women and children, that peaceable citizens were murdered, it was time to make resistance. Some of the assertions of the Secretary at War, he said, were not founded in fact; particularly with respect to the expedition being undertaken for the avowed purpose of carrying the war into the Cherokee country; indeed they were contradicted by a reference to General Smith's letter to the Secretary of War. He trusted it would not be presuming too much, when he said, from being an inhabitant of the country, he had some knowledge of this business. From June to the end of October, he said, the militia acted entirely on the defensive, when twelve hundred Indians came upon them and carried their station, and threatened to carry the seat of Government. In such a state, said Mr. J., would the Secretary (upon whom the Executive power rested, in the absence of the Governor) have been justified, had he not adopted the measure he did of pursuing the enemy? He believed he would not; that the expedition was just and necessary, and that, therefore, the claim of Mr. White ought to be granted.

He therefore proposed a resolution to the following effect:

"Resolved, That General Sevier's expedition into the Cherokee Nation, in the year 1793, was a just and necessary measure, and that provision ought to be made by law for paying the expenses thereof."

Mr. HARPER said, this appeared to be a subject of considerable importance; he hoped the resolution would, for the present, lie on the table. He therefore moved that the committee rise and ask leave to sit again.

Mr. COIT said, the report wanted some more preparation before it should have come before the House; he would therefore move that it be referred to the Committee of Claims; he knew of no reason against this reference, as many reports from Heads of Departments had been so referred.

Mr. BLOUNT hoped the motion would not prevail. The expedient of referring it to the Secretary at War was resorted to, when it first came before the House. He hoped now it would not be deferred, but decided on. He thought the Committee of Claims, from having once had it before the House, knew as much of the case as they could know, and perhaps all was included in this report.

Mr. D. FOSTER made the same observations in effect as Mr. BLOUNT.

Mr. COIT said, gentlemen had not given a shadow of a reason why it should not be referred to that committee.

Mr. JACKSON owned he was not very well acquainted with the rules of the House, but from the best idea he could form, it was a very circuitous way of doing business. Why now refer it to the Committee of Claims, when all the facts are stated in this report, he knew not. If this was the usual mode of doing business, he hoped it would not be referred.

Mr. W. LYMAN thought, the time it was under consideration before, when referred to the Secretary at War, was the time to have thought of referring it to that committee; but now it was too late; now the House had a report before it. It appeared to him a mere formality. It looks like throwing the business out. He had not made up his mind which way he should vote, but he thought one report was sufficient; he, therefore, hoped it would come under consideration.

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Mr. BLOUNT said, when he first presented the petition, he moved it to be referred to the Committee of Claims; it was then rejected, and sent to the Secretary at War.

The Committee rose, and obtained leave to sit again.

## **FRIDAY, December 30.**

### ***The Chickasaw Claims.***

ALEXANDER D. ORR, from Kentucky, appeared, and took his seat.

Mr. ANDREW JACKSON presented a petition of George Colbert, one of the chiefs and warriors of the Chickasaw nation of Indians, complaining of a non-performance of stipulations entered into in certain *talks* held with Governor Blount and other agents of the United States, in which they agreed in defensive support of each other's rights; that their nation was invaded by the red people, (the Creeks,) when they applied, according to treaty, for aid; that their brother, James Robertson, said he had no orders to send them any assistance; and that he must first have orders from their father the PRESIDENT OF THE UNITED STATES. However, a detachment of volunteers under the command of Colonel Mansker, came to their aid. He asked compensation for supplies furnished to that detachment during sixty days. He said he had applied to his beloved friend the Secretary at War, who told him that Congress had set apart no money out of which it could be paid; he, therefore, applied to Congress for relief.

This petition was referred to the Committee of Claims.

### ***Hugh Lawson White.***

The House again resolved itself into a Committee of the Whole on the petition of Hugh Lawson White.

The resolution of Mr. ANDREW JACKSON having been read,

Mr. COIT called for the reading of the petition upon which the report was founded. It was read.

Mr. A. JACKSON said, the rations found for the troops on this expedition had already been paid for by the Secretary of War, and he could see no reasonable objection to the payment of the whole expense attending the expedition. As the troops were called out by a superior officer, they had no right to doubt his authority. Were a contrary doctrine admitted, it would strike at the very root of subordination. It would be saying to soldiers, "Before you obey the command of your superior officer, you have a right to inquire into the legality of the service upon which you are about to be employed, and, until you are satisfied, you may refuse to take the field." This, he believed, was a principle which could not be acted upon. General Sevier, Mr. J. said, was bound to obey the orders he received to undertake the expedition. The officers under him were also obliged to obey him. They went with full confidence that the United States would pay them, believing that they had appointed such officers as would not call them into the field without proper authority. If even the expedition had been unconstitutional (which he was far from believing), it ought not to affect the soldier, since he had no choice in the business, being obliged to obey his superior. Indeed, as the provisions had been paid for, and as the ration and pay-rolls were always considered a check

upon each other, he hoped no objection would be made to the resolution which he had moved.

Mr. COIT said, he had called for the reading of the petition, because he could not see the connection between it and the resolution under consideration. The petition prayed for recompense for the services of the petitioner, and the men under his command, and the proper resolution would be that the prayer of it ought or might not be granted; but, instead of this, the resolution before them went to the whole troops employed in General Sevier's expedition.

Mr. A. JACKSON said, by referring to the report it would be seen that the Secretary of War had stated, that to allow the prayer of this petition, would be to establish a principle that would apply to the whole of the militia in that expedition. If this petitioner's claim was a just one therefore, the present decision ought to go to the whole, as it was unnecessary for every soldier employed in that expedition, to apply personally to that House for compensation.

Mr. RUTHERFORD observed, that the gentleman from Tennessee had set the matter in so fair a light that it was not necessary to say much more on the subject; but, as he had been acquainted with the frontier from his infancy, he would just give it as his opinion, that the expedition was a necessary one, and that the expense ought immediately to be paid. He hoped, therefore, the resolution would be agreed to unanimously.

Mr. HARPER was not prepared to say, without more information than he had on the subject, that the measure was just and necessary, or the contrary. He felt disposed to think favorably of the expedition; but he thought the House should have further information before it came to any resolution on the subject. They had, it was true, a letter from General Smith, the then Secretary, but he thought this was not sufficient. He thought it would be better to refer the report and other papers to a select committee, with instructions to inquire into the necessity and propriety of the expedition, and report thereon. He hoped, therefore, the present resolution would be disagreed to, and the committee would rise. He would then bring forward a resolution to that effect. The Secretary of War, he said, had not gone fully into the subject; he had given them copies of two letters, but not his opinion. He did not think that an expedition of so important a nature, and which must involve in it a very heavy expense, should be decided upon without further information.

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Mr. CRAIK agreed in sentiment with the gentleman from South Carolina, (Mr. HARPER.) He said there was great difficulty in forming an opinion from the report itself; though the Secretary of War seemed to think the calling out of the Militia necessary, there were other expressions in the report which appeared to convey a contrary sentiment. He referred to the letter of General Smith, but mentioned that there were other papers. He could not say the expedition was not necessary; but he thought further information was desirable, and the report should be committed to a select committee, for the purpose of gaining that information.

Mr. W. SMITH agreed with the two gentlemen last up, that further information was necessary. The question, he said, involved a number of important points. In the first place, a question was involved, whether, if the expeditions was necessary, as it was not authorized by law, the expense ought to be defrayed by the United States? By the report of the Secretary of War, it had appeared that Congress were well apprised of all the circumstances which rendered the expedition necessary, yet they did not think proper to authorize it. In the letter of the Secretary of War to Governor Blount, on the subject, was this passage:

"If those difficulties existed while the Congress were in session, and which, it was conceived, they alone were competent to remove, they recur, in the present case, with still greater force; for all the information received at the time Congress were in session, was laid before both Houses, but no order was taken thereon, nor any authority given to the President of the United States; of consequence his authority remains in the same situation it did on the commencement of the last session. It is, indeed, a serious question to plunge the nation into a war with the Southern tribes of Indians, supported as it is said they would be."

Mr. S. also read from the report "that the expedition was undertaken without authority," &c. The Secretary afterwards, indeed, stated, in his report, the disagreeable situation of the country at the time, by way of palliative; but, as Congress were possessed of these facts, and did not authorize offensive operations, it became a nice point to determine whether the expedition in question was justifiable. He would not say that such a situation of things might not occur as would justify a measure of the kind, but it was of consequence to determine whether this was such a case, which could not be done hastily. Neither had the House any information of the magnitude of the expense, whether it would be two or three hundred thousand or half a million of dollars. He should, therefore, hope the Committee of the Whole would be discharged, and that the subject would be committed to a select committee.

Mr. MADISON saw no necessity for referring this subject to a select committee. If it was suggested that the official information which was before them was inaccurate, and that a more full explanation of the situation of things was necessary, there would be some ground of reference; but he did not find that this was the case. The Secretary of War stated facts, and referred to documents to prove "that the Indians had greatly perplexed and harassed, by thefts and murders, the frontier inhabitants of Tennessee, had shown themselves in considerable force, and killed at two stations fifteen persons." If this was a state of facts, and it could not be doubted, the words of the constitution on the subject were clear: "No State shall, without the consent of Congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded,



or in such imminent danger as will not admit of delay."<sup>[6]</sup> There could be no doubt, therefore, Mr. M. said, but this expedition came within the meaning of the constitution. In many cases, he said, it was difficult to determine betwixt offensive and defensive operations, as it was sometimes necessary, when acting on the defensive, to use an offensive measure. He had no doubt on the subject, and thought the expense of the expedition should, by all means, be paid.

Mr. DAYTON (the Speaker) said, that he was not prepared to adopt the resolution which was moved by the member from Tennessee, nor even to decide finally upon it, unless he could be persuaded that the gentleman from Virginia (Mr. MADISON) was correct in saying that the report before them contained all the information which it was possible for them to obtain. He was convinced that there were other official papers and documents which would throw additional light upon the subject, and therefore, ought to be in possession of the Committee of the Whole before they took any decisive step. He alluded to the confidential communications from the PRESIDENT, in December, 1792, which gave rise to lengthy discussion, with closed galleries, upon the measures that ought to be adopted in consequence of the hostile acts and threats of those very south-western Indians, who were the objects of the expedition for which they were called upon to pay. The House of Representatives then decided that they would neither declare war against those nations of Indians, nor authorize the PRESIDENT to carry an offensive expedition into their country, if, in the recess of Congress, he should deem it proper, in consequence of their continuance in hostility. As the acts of Congress upon this very application would operate in future as a precedent and kind of commentary on that part of the constitution which limited the instances in which a State might levy troops and act offensively, without the previous assent of the General Government, they could not, Mr. D. said, be too particular in their investigation, nor too strict in their reference to dates and facts. He hoped that the Committee of the Whole, would be discharged, and the report of the Secretary of War referred to a select committee, whose duty it would be to report those facts, with their dates, which gave rise to the claim in question, and which justified, under the provision in the constitution, the raising of troops and carrying on an offensive war, without the previous consent of Congress or approbation of the PRESIDENT.

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Mr. NICHOLAS believed, on a reference to dates, it would be seen that these attacks of the Indians were subsequent to those which were in the knowledge of Congress at the time mentioned, as they took place while Governor Blount was at Philadelphia; and he thought no further information was necessary on the subject than the letter from General Smith to the Secretary of War, printed with the report, to prove that the expedition was both just and necessary. General Sevier's going into the Cherokee country was no proof that his operations were offensive. If other information could be obtained by referring the business to a select committee, he should have no objection; but he believed this would not be the case. He wished the letter of General Smith to be read. [It was read accordingly.]

Mr. BALDWIN was not able to recollect how great a portion of the members present were in the House when this business was brought before Congress in the year 1792. His own recollection was fresh upon the subject. It was a period when they were much alarmed for our Indian frontier, North and South. The North was fortified, and it was recommended to have a legion on the South. The gentleman from South Carolina, he recollected, was opposed to the measure, and thought the Executive had determined too soon upon hostility. Mr. B. said he had at that time frequent conversations with the then Secretary of War, who informed him that he had written to the Governor of Tennessee that, in case the pressure of the Indians was so great as to require it, he must call out the militia. The Governor was well known, and sufficient confidence was placed in him that this power would not be abused. He believed the troops on the Northern frontier had not proved sufficient, and that they had already paid the expense of troops which were called in to their assistance. At this period, Mr. B. said, the danger which threatened the country was great, and it was happy for us it had been so well got over. He believed it was well that the legion for the Southern frontier was not equipped, though he at that time thought it necessary. The expense of the expedition in question, he said, would be nothing compared with that which would have taken place had the legion contemplated been equipped. Mr. B. said, he had no doubt with respect to the propriety of paying the expense of this expedition. He did not think the number of men was great, or that the charge would be very heavy.

Mr. DAYTON (the Speaker) said, he was inclined to believe the attacks of the Indians, which provoked the expedition of General Sevier, were subsequent to those in the knowledge of Congress at the time the subject was under discussion.

He was one of those, he said, who thought that the hostile dispositions shown by those Indians at that time called for force, and he had introduced a resolution, by means of his colleague, to that effect. It was not, therefore, that he did not think the expedition authorized, but because he had a desire to have the facts relative to the subject clearly stated, that he wished the business to be committed to a select committee.

Mr. RUTHERFORD said, they were not particular about the manner of doing the business, provided it was done. He was confident the expense of the expedition ought to be paid. When the Indians were upon them, what could the Governor do? Was he to send forward to the seat of Government to be instructed what to do? No; resistance was necessary, and it was not becoming in them now to say, "You did not act perfectly regular—the thing was not exactly as it should have been." It was a critical period, he said, and if the expenses were not paid, it might have a bad effect in future.

Mr. KITCHELL was in favor of the committee rising. He remembered the transactions which took place on this business, as mentioned by his colleague, (Mr. DAYTON.) He said, he was one of those



who voted against the proposition of using hostile means, because he thought it possible to ward off the evil. It had been warded off; but he believed there was sufficient ground for calling out General Sevier, and he doubted not, if the business was referred to a select committee, the result would be satisfactory to those gentlemen who brought forward the business.

The committee rose, and leave not being granted to sit again, on motion, the report and papers accompanying it were referred to a select committee of Messrs. A. JACKSON, J. SMITH, BLOUNT, DENT, and HARPER.<sup>[7]</sup> [Pg 52]

**FRIDAY, January 20, 1797.**

***Direct Taxes.***

The House then took up the consideration of the resolution reported yesterday by the Committee of the Whole, on the subject of further revenue.

Mr. COIT wished for a division of the question, viz: that the proposition for a tax on land and that for slaves should be put separately.

Mr. SWANWICK called for the yeas and nays. They were agreed to be taken.

Mr. NICHOLAS thought the resolution should not be divided, but that the propositions for a tax on land and a tax on slaves should go together, as he should object to vote for the tax on land except that on slaves accompanied it. He thought the gentleman had better try the question, by moving to strike out what respected slaves.

Mr. MADISON thought it would be best for the two propositions to go together; but if they did not, he did not think the embarrassments insuperable. If the question was divided, those who thought a tax on slaves necessary must vote for the first part; and if the second was rejected, there would not be wanting an opportunity of voting against the tax on land. It was necessary to observe, that it had been found expedient to associate these two taxes together, in order to do justice, and to conform to the established usage of a very large tract of country, who were entitled to some degree of attention, and to whom a tax on land, without a tax on slaves, would be very objectionable.

Mr. COIT said, he could not gratify the gentleman from Virginia by varying his motion, as it would not answer the purpose he had in view.

Mr. NICHOLAS supposed, if the motion was persisted in, he was at liberty to move to insert *slaves* in the first part of the resolution. The gentleman certainly knew his own views best; or he thought it was possible to have settled the business he proposed.

Mr. W. SMITH saw no difficulty on the subject. Gentlemen would vote for the first part of the resolution, in hopes that the second would pass; but if it did not pass, they would have an opportunity of voting on the main question, and thereby defeat the whole.

Mr. VAN CORTLANDT would vote for both together, but not separately.

Mr. GALLATIN inquired as to a point of order, whether, if the first part of the resolution was carried, and the second negatived, the question would not then be taken upon the resolution as amended?

The SPEAKER answered in the affirmative.

Mr. WILLIAMS said, it would save time if the question was taken upon the whole resolution together; for if several gentlemen voted against the first proposition, lest the last should not pass, the whole might in this way be defeated. He thought a vote might be safely taken upon the whole together, as no one would be bound by the vote in favor of the bill, if he should not approve of it. For his own part, he wished to see the plan, though he did not know that he should vote for it.

Mr. NICHOLAS supposed there was not the difficulty mentioned by the gentleman from New York. Gentlemen would not risk the whole by voting against the first part of the resolution; since, if the second was not carried, they could afterwards reject the whole.

The question was then put, that the House agree to the first resolution, viz:

"*Resolved*, That there ought to be appropriated, according to the last census, on the several States, the sum of—, to be raised by the following direct taxes, viz:

"A tax ad valorem, under proper regulations and exceptions, on all lands, with their improvements, including town lots, with the buildings thereon."

It was resolved in the affirmative—yeas 48, nays 39.

The second part of the resolution, relative to slaves, was about to be put, when

Mr. GALLATIN said, before the question was taken on this division, he would just mention why this species of personal property was brought under view, whilst all other personal property was unnoticed.

It was very true, that stock upon a farm in the Northern and Eastern States paid nearly as great a proportion of the taxes of those States as the negroes did those of the Southern States, and therefore it might seem somewhat wrong to introduce negroes in the one case and not cattle in the other. The reason which induced the Committee of Ways and Means to adopt this mode was, that negroes are confined to certain spots of land in the Southern States, while horses and cattle

extend nearly over a whole country. And a land tax, unaccompanied with a tax on slaves, would be very unpopular in those States, as it would throw too great a burden upon farmers who did not hold slaves, and fall too lightly upon those whose property chiefly consisted of slaves. There was this difference betwixt the two species of property: A farmer in the Northern or Eastern States would not think himself aggrieved by not paying a tax upon his farming stock; but a farmer in the Southern States would think himself aggrieved if his land was taxed, whilst the slaves of the slaveholder were not taxed. It was on this account that this species of property was introduced.

Mr. MURRAY was not struck with the observations of the gentleman last up, so as to say he would ultimately vote for this species of tax; at present, he should vote for a bill to be brought in; but unless he found the bill could reconcile the principle more, and do greater justice in the case than he at present conceived, he should then oppose it.

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He said, he considered slaves in the Southern States as laborers, and unless gentlemen could show him where laborers were taxed, he should not think it right to vote for that part of the bill. He was decidedly in favor of a land tax, but against the other part of the question. Mr. M. said, he merely mentioned this that he might not hereafter be charged with inconsistency, in case he should vote against the bill. He repeated, unless provision be made for taxing labor in other parts of the United States, he must vote against this part of the bill if brought in, because the tax would operate very unequally.

Mr. HARPER said, though he was entirely opposed to the tax proposed by the resolution, and should vote against the whole, yet he thought it right that a tax on slaves should be introduced with a tax on land; for, as this direct tax was to be raised by apportionment through the States, whether the Southern States paid on slaves, or the Northern States on land, made no difference in effect; each paid in its own way; one mode was more convenient for the Northern, another for the Southern, and another for the Eastern—no injury was done by this to any other State.

Mr. G. JACKSON said, he was against all species of direct taxation, but particularly on this species; and, if a tax on land was carried, he should bring forward a resolution to lay a tax upon all property vested in public securities. He wished for the yeas and nays on this question.

The yeas and nays were agreed to be taken.

Mr. NICHOLAS wondered to hear the observation of his colleague. He should vote for the question, though he and his constituents would be affected by it; but, in the district which that gentleman represented, there were no slaves; and it was therefore his constituents' interest to have a tax on slaves, in order to lighten that on land.

Mr. G. JACKSON said, it was not so much on account of the interest of himself or constituents that he opposed this tax, but he objected to it as a capitation tax.

Mr. MOORE said, the situation of the Southern States had been truly stated. In the Western parts, there were few slaves. He said, in the representation to that House, the labor of the negroes had been considered as five to three, with respect to white persons; therefore, the ability of the State to pay was considered in the same proportion. His colleague from the mountains (Mr. G. JACKSON) should consider that, if the holders of slaves were not to pay a portion of the tax imposed on the State of Virginia, it would fall very heavy upon his constituents, and those of his colleague, where few blacks were kept.

He hoped, therefore, it would pass.

Mr. JEREMIAH SMITH was aware that a tax on slaves would lighten the tax on land in the Southern States, and therefore he did not wonder at the Representatives from those States wishing it to take place; but, by so apportioning the tax, would not the landholders in the Southern States pay less than the landholders in parts of the Union where no slaves were kept? He believed they would. A person, for instance, in New Hampshire, holding the value of £1,000 in land, would pay a larger portion of the tax than a holder of land to the same extent in Virginia. He believed this would be unjust, and an objection to this mode of taxing the Southern States, as, though the tax would fall more equally on them, it would not be so with respect to other States.

Mr. GOODRICH said, this tax was introduced into the system for the accommodation of that part of the Union where slaves were numerous.

A disposition to render the plan as acceptable, in every part of the country, as it could be made, consistently with the interests of the whole, ought to prevail. But, before a tax on slaves was adopted, its operation on the Union, and its effects, as it respected different districts, should be considered.

A direct tax ought to fall as equally as possible every where; that on land and houses, with their improvements, which had been agreed to, would be laid by a valuation seldom repeated—perhaps, once in ten or fifteen years. The expense of its assessment and collection would be nearly equal throughout the United States; but, with respect to a tax on slaves, there would be required frequent enumerations—at least an annual enumeration. This would be attended with considerable expense, to be defrayed, not by the particular districts, for whose benefit this species of tax was introduced, but by the United States.

There was another objection. A land tax was certain—it might, and undoubtedly would, be made a lien on the real estate on which it was laid. It would, be liable to little, if any, loss. Not so with a tax on slaves. Such a tax, he apprehended, would be uncertain, exposing the revenue to considerable defalcations. If a provision could not be made to place the loss on the districts where it happened, by retaxing them it would operate unequally. He imagined a retaxation for defalcation, if it could be made, would be considered as unjust, and create discontent among the

individuals who were subjected to it; and if that could not be done, the deficiency must fall on the Union, and would produce uneasiness from its partial effects. He did not know how the detail would be arranged. He had been of the number who were desirous to see the collection-law, before they decided on the resolution before them, so as to have possessed the whole subject. At present, he saw so many difficulties from incorporating this species of tax into the plan, he could not assent to it.

Mr. NICHOLAS said, he did not understand the objections of the gentleman from New Hampshire, (Mr. J. SMITH.) He did not see how he could produce an equal value in land in every part of the Union. The tax, he said, would be apportioned according to the number of persons, and not according to the number of acres in any State.

If the gentleman from Connecticut (Mr. GOODRICH) would rely upon his information, he might be assured that an annual enumeration of slaves would not cost so much as an assessment of land made once in ten years. With respect to the tax being uncertain, he was totally mistaken. It was the most productive tax in the Southern States. If the tax was laid wholly upon land, it would be laid on a great part which would be unsaleable, and when a report came to be made of the collection, there would be found great deficiencies; but, with respect to slaves, there would be no failure, because they were a species of property which would always find a ready sale in the Southern market.

Mr. S. SMITH said, he had heard much on that floor with respect to equality of taxation. It was impossible, he said, to make taxes fall exactly equal; they will fall, in some cases, heavier than in others. He would state a case. When a tax on carriages was under consideration, they found the gentlemen from Connecticut voting without scruple, because that State paid only two or three hundred dollars annually, when Maryland paid five thousand dollars a year to that duty. There was no equality in this; yet those gentlemen winked at the disproportion. He hoped they would do so in the present case.

Mr. POTTER said, if this part of the resolution was agreed to, it was to apportion a tax on the personal property of the Southern States, which, no doubt, they would be glad of; and if gentlemen from those States could point out any way by which the personal property of other States could be come at, he would agree to the present proposition; but he believed this could not be done; and, if not, he saw no reason why the personal property of those States should be made to bear a part of the proposed burden, whilst personal property in other States was suffered to go free. It was a hard case, he said, that a man who possessed three or four hundred dollars in land, should be made to pay a portion of the direct tax, whilst men of affluence, who possessed many thousands in public securities, or loaned on interest, should pay nothing.

The SPEAKER reminded the House that the question was very much lost sight of; it was not whether a tax should be laid on carriages or personal property, but whether they would agree to the report of the Committee of the Whole, viz: "that a tax should be laid on slaves, with certain exceptions."

Mr. HENDERSON said, he should vote against this proposition, because it was a direct tax, as he should vote against every question of that kind, until every source of indirect taxation was exhausted; and he thought this was not the case at present.

Mr. CLAIBORNE said, he thought, also, that direct taxes should not be resorted to until indirect sources were exhausted; but he believed, they were now exhausted, and that direct taxes were the only means left to them of raising money. As he lived in a country which was unfortunately *cursed* with negroes, he wished the present motion to pass, for the sake of making the tax bear, in some degree, equally in the Southern States; but if he thought with his colleague (Mr. JACKSON) that a tax on slaves bore any affinity to a capitation tax, he should also oppose it; but he had no such idea.

Mr. GALLATIN said, he would just notice what had fallen from the gentleman from Connecticut (Mr. GOODRICH) which was the only thing like argument which had been used against the present proposition. As to what had been said about the quantum of tax falling on different States, or what had been said by the gentleman from Rhode Island (Mr. POTTER) with respect to the personal property of the Eastern States, he did not see how it applied to the present question. If the proposed tax was certain, and the expense of collection would not be greater than would attend the collection of the tax in other States, he did not see any objection to it.

The gentleman from Connecticut had said, that the expense of an annual enumeration of slaves would be great, and that it would fall upon the United States. He would inform that gentleman and the House, that when no assessment took place, but merely an enumeration, it would be attended with no expense on the collection of the tax. The distinction which he made was, when a valuation and enumeration were both necessary, and when an enumeration alone was necessary. In the first instance, the value of the property was to be ascertained, and the tax laid accordingly; but where an enumeration was only wanted, (the tax per head, according to age, &c., having been settled,) no expense would be incurred.

Mr. G. said, he spoke from experience. In Pennsylvania there was a certain tax on personal property, the taking an account of which did not increase the expense. Every three years there was an assessment of personal property, amongst which was slaves; but the enumeration was managed in this way: the collector called twice upon persons—the first time he gave them notice to pay, and took an account of their property, which, consisting of few articles, and the value being already fixed, he could tell them at the time, the amount to be paid at his next call.

As to any degree of uncertainty apprehended from this tax, that might be removed by throwing

the deficiency, if there should be any, upon the land. He thought, therefore, the objections which had been urged against this tax would be completely obviated.

Mr. COIT allowed, that nothing was more clear than that the manner in which the Southern States paid their apportionment of the proposed burden, could make no difference to the Northern and Eastern States; but the gentleman from Pennsylvania (Mr. GALLATIN) allowed there was some weight in the objections, with respect to the assessment and collection of the tax.

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If he understood that gentleman, he said that the making an enumeration of slaves would make no difference in the expense. He did not know how this could be. If two objects were to do, viz: to value and assess the land, and to enumerate and value the slave, it was new doctrine to him, if these two things would not cost more than if only one had been done; or, if this business would be done for nothing, it would be one of the first things the United States had had done upon those terms.

Upon the collection, there would also be an additional expense and a probability of loss; the more detail there was in the business, the greater liability to error and loss to the United States; and in proportion to this loss would these States pay less than others.

Mr. HARTLEY said, he should at present vote for the proposition; but should feel himself at liberty to vote differently on the bill, if he did not approve it. Difficulties arose in his mind as to the propriety of taxing personal property in one State and not in another, by which means a bounty seemed to be given on land in the Southern States to the amount of the difference of the taxes between the land in those States, and that in other States, upon which purchasers would naturally calculate. This difficulty might probably be removed from his mind; and, therefore, in order to give the whole of the business a fair chance, he should wish the resolutions to go back to the Committee of Ways and Means, to bring in a bill.

Mr. PAGE did suppose that gentlemen coming from States which were in the habit of collecting direct taxes, would have endeavored to accommodate the business to the situation and circumstances of different States, so as to make the system the most convenient to each. He did suppose that, whenever it should have been determined to enter upon direct taxation, that sums would have been apportioned to each State, and that they would have been left to themselves to have raised the money in the way which they thought most convenient. Insurmountable objections, however, it seemed, had been found against this system, as appeared from the report of the Secretary of the Treasury; but it was unreasonable that the Northern States should complain that the Southern States would pay the tax with greater facility than them. They might, he said, as well complain against the richness of their soil, or the warmth of their climate.

With respect to the tax falling lighter on them than on other States, those who held slaves would find it lighter, but those who had none, would not. But he thought it extraordinary that, whilst they were upbraided with holding a species of property peculiar to their country, they should also be upbraided with wishing to pay a duty upon that property.

Mr. P. said, he did not see what difference it could make to other States, that they raised a part of the tax required of them from slaves. The Secretary of the Treasury had recommended this mode, the Committee of Ways and Means had reported accordingly; and they were ready to pay a tax for their slaves, in addition to the expense they were at for them already; for, it should be recollected, persons holding slaves, contribute largely to the duties collected from imposts, by the purchase of flannels and cloth, rum, molasses, &c., necessary for their food and clothing.

If a person living in a State where slavery did not exist, paid something more for his land, the difference was certainly not equal to the satisfaction he must enjoy in reflecting, that his State was free from that evil. His land, on that account, would be worth three times as much as land of the same quality in the Southern States. Why, then, do gentlemen complain? The Southern States themselves might have objected to this tax; they might have doubted the constitutionality of it; indeed, he did doubt it, but he had agreed to it; and he believed there was no better way of making the tax go down in those States, than by the present measure.

For his own part, Mr. P. said, he wished he lived where there was no slavery; and if he could find a climate he liked as well, he would change his situation on that account.

Mr. BRENT said, it was a very extraordinary thing that gentlemen who represented States where there were no slaves, should oppose a tax on that species of property, and that the Southern States where slavery existed, should be advocating that tax.

By the report of the Secretary of the Treasury, there appeared a deficiency of revenue, and in order to supply that deficiency, they had determined to have recourse to direct taxation; and, after the amount which each State ought to furnish, had been ascertained, he thought it should have been left to the different States to have raised the money from such funds as they judged best, provided they had been secure. This, he thought, would only have been liberal and proper. It had, however, been determined otherwise; but, from a knowledge that, by introducing land and slaves together, as objects of taxation, the tax would be more equally levied in the Southern States, if that plan had been adopted. And, surely, he said, it could have given no satisfaction to any other State, that, by laying a tax on land only, it should have operated in a very oppressive manner in some parts of the Southern States, and scarcely have been felt at all in other parts of those States; and yet, this would appear to be the opinion of the gentleman from New Hampshire; for, he said, if this law passed, a person possessing landed property in New Hampshire, of the value of £1,000, would pay more than a landholder to that amount in the Southern States. And was this, he asked, a subject of regret? If the State of Virginia paid the amount required of her in a manner which bore most equally upon the whole of her citizens,

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ought that to displease the citizens of other States? He thought not. He was of opinion, that it would be a desirable thing that the tax should be found to fall equally on the citizens of every State.

Another objection, produced by the gentleman from Connecticut (Mr. GOODRICH) was that a tax on this species of property would not be so secure as a tax on land. If that gentleman had been acquainted with the situation of the Southern States, he would have known that slaves formed the most certain fund of those States; for, whilst their wide and extensive waste lands would not command any price, slaves were always ready sale. Hence it arose, that the States were not able to raise a tax on land, whilst a tax on slaves had never failed to be productive.

With respect to the inconvenience or expense attending a tax on slaves, in Virginia, he said, no expense would be necessary; because it was the custom of that State to take annually, a list of their slaves, which was regularly recorded in the archives of the State. If gentlemen were, therefore, so economical that they would not expend a few of the public pence to get a list of this property, let them recur to the document he had mentioned, which might be done without expense.

To those who know the situation of the Southern States, the remarks made by the gentleman from Pennsylvania (Mr. GALLATIN) must have been irresistibly impressive. Almost the whole of the lower part of the country possessed property of this kind, whilst the upper parts had scarcely any. If a tax was, therefore, imposed upon land only, the upper part of the country would be extremely aggravated, and would murmur, and they would murmur with justice.

Gentlemen from the Eastern States called upon the Representatives of the Southern States to point out a mode by which they might come at the personal property of their States. But, he would ask them, if, independent of land with its improvements, they possessed any other species of property which could not be eluded? He believed they could not point it out; why, then, call upon gentlemen from the Southern States to do, what they, who certainly knew best their own resources, were unable to do?

The gentlemen from the Southern States, he said, had discovered those objects which they thought best able to bear the burden; and if the Representatives of the other States were not satisfied with the tax on land, let them come forward and say what other property they have equally secure, upon which a tax may be laid.

It was a phenomenon, he would again say, that the Representatives of States where slavery existed, should be contending for a tax upon slaves, and that members from States where slavery was not tolerated, were opposing it. He could not help believing that the real object of gentlemen had not been avowed. It was something hidden and unseen.<sup>[8]</sup>

Mr. KITTERA said, that the opposers of this part of the resolution were the opposers of a direct tax altogether. It was observable that those upon whom the tax would fall, did not complain. It was extraordinary that the complaints should come from another quarter. As to the objections of his colleague (Mr. HARTLEY) that part of the tax being laid on slaves in the Southern States, would affect the value of land, it would make no difference whether the tax was on land or slaves, as it affected land, its operation would be the same. It was therefore no solid objection against the resolution.

On the question, that the House do agree to the last part of the said resolution, in the words following, to wit: "A tax on slaves, with certain exceptions;" it was resolved in the affirmative—yeas 68, nays 23, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Richard Brent, Daniel Buck, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, William Cooper, William Craik, James Davenport, George Dent, George Ege, William Findlay, Abiel Foster, Jesse Franklin, Albert Gallatin, James Gillespie, Nicholas Gilman, Henry Glenn, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Hathorn, Jonathan N. Havens, William Hindman, James Holland, Andrew Jackson, John Wilkes Kittera, Matthew Locke, Samuel Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Samuel Sewall, Samuel Sitgreaves, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, Jr., William Strudwick, John Swanwick, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

NAYS.—Nathan Bryan, Dempsey Burges, Joshua Coit, Samuel W. Dana, Henry Dearborn, Dwight Foster, Nathaniel Freeman, Jr., Chauncey Goodrich, Roger Griswold, Thomas Henderson, George Jackson, William Lyman, Francis Malbone, Elisha R. Potter, John Read, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, and Joseph B. Varnum.

And then the main question being taken, that the House do agree to the resolution, as reported by the Committee of the whole House, it was resolved in the affirmative—yeas 49, nays 39.

*Ordered*, That the Committee of Ways and Means do prepare and bring in a bill or bills, pursuant to the said resolution.

## MONDAY, January 23.

THOMPSON J. SKINNER, from Massachusetts, in place of THEODORE SEDGWICK, appointed a Senator of the United States, appeared, produced his credentials, was qualified, and took his seat in the House.

## FRIDAY, January 27.

### *Appropriations for 1797.*

The House then resolved itself into a Committee of the Whole, on the subject of appropriations for the year 1797, when the article which relates to the contingent expenses of the two branches of the Legislature, amounting to twelve thousand dollars, being read,

Mr. BALDWIN said, he had often before made the remark, (and he thought it not unseasonable now to repeat it,) that the House was too apt to be merely formal and superficial in passing on the general estimate for the year. He was sorry to observe that this item had within this year or two been considerably increased; he believed the price of wood, stationery, and other articles purchased for the session, was now much the same as in 1795, though the printer's bill might be higher; yet, as the session would be but three months, he thought the sum allowed for 1795 would be sufficient. He had always thought this charge for the contingencies of the two Houses, one of the strongest instances of that kind of loose economy which it has been complained, and perhaps with too much justice, pervades all the operations of the Federal Government—we have often been reminded that, to make an expedition into the woods to an Indian town, or to build a frigate, or to coin one hundred tons of copper, costs us a great deal more than it ever did any other Government in this country. If this is a strong instance of that style of economy, let us begin the reformation with ourselves, and not be so prodigal this year in our contingent expenses; our circumstances call on us for greater attention to economy. He was sensible the place for correcting these evils was ordinarily on passing the law authorizing the expense, and not on the appropriation for the payment of it; but this item, and many others, depended on no law—changing the sum in the estimate will control the expense. If any one will take the trouble of looking over the vouchers on which these accounts have been settled for past years, he will see that there is room for more economy. One branch of the Legislature consists of about thirty members—four thousand dollars is a great sum for the purchase of their wood, quills, and paper, and for furnishing them with copies of business under consideration. Is it possible that twelve thousand dollars can be necessary for the two Houses? The whole yearly expenses of some of the State Governments do not amount to a much greater sum—he hoped this would be struck out, and the sum which was allowed for 1795, and some preceding years, be inserted.

Mr. SMITH presumed the estimate was founded upon information received from the Secretary of the Senate and the Clerk of that House. He did not conceive it would make any difference in the expenditure, whether a larger or smaller sum be appropriated; as he did not suppose the Senate or that House would print the less because a less sum was appropriated. The gentleman, he said, might, by his speech, give an idea to the public, that this would be a saving of so much money; but it would, in reality, make no difference.

After a few observations from other members, the question was put and negatived—37 to 30.

The committee then rose, and had leave to sit again. And the House adjourned till Monday.

## MONDAY, January 30.

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

### *Manumitted Slaves.*

[Mr. SWANWICK presented the petition of Jacob Nicholson and Jupiter Nicholson, Job Albertson and Thomas Pritchett, dated at Philadelphia, stating that they had been the slaves of persons in Perquimans County, North Carolina, who had manumitted them, and whose surname they took—that afterwards they had been seized by other persons and sold into slavery under a law of the State—that to escape from this bondage they had fled to Philadelphia, where they had been seized under the fugitive slave act: and pray relief from Congress.]

The petition being read—

Mr. SWANWICK said, he hoped it would be referred to a select committee.

Mr. BLOUNT hoped it would not even be received by the House. Agreeably to a law of the State of North Carolina, he said they were slaves, and could, of course, be seized as such.

Mr. THATCHER thought the petition ought to be referred to the Committee on the Fugitive Law. He conceived the gentleman much mistaken in asserting these petitioners to be absolute slaves. They state that they were slaves, but that their masters manumitted them, and that their manumissions were sanctioned by a law of that State, but that a subsequent law of the same State, subjected them to slavery; and if even there was a law that allowed them to be taken and sold into slavery again, he could not see any propriety in refusing their petition in that House—THEY CERTAINLY (said Mr. T.) ARE FREE PEOPLE. It appeared they were taken under the

fugitive act, which he thought ought not to affect them; they now came and prayed the House so to model that fugitive act, as to prevent its affecting persons of their description. He therefore saw great propriety in referring their petition to the committee appointed to amend that act in another part; they could as well consider its relation to the present case. He could not see how there would be a propriety in rejecting their petition; they had an undoubted right to petition the House, and to be heard.

Mr. SWANWICK was surprised at the gentleman from North Carolina (Mr. BLOUNT) desiring to reject this petition; he could not have thought, nor could he indulge the suspicion now, that the gentleman was so far from acknowledging the rights of man, as to prevent any class of men from petitioning. If men were aggrieved and conceive they have claim to attention, petitioning was their sacred right, and that right should never suffer innovation; whether the House ought to grant, was another question. The subject of their petition had a claim to the attention of the House. They state they were freed from slavery, but that they were much injured under a law of the United States. If a law was ever made that bore hard on any class of people, Mr. S. hoped that the door would never be shut to their complaints. If the circumstance respecting these people was as they stated, their case was very hard. He animadverted on the atrocity of that reward of ten dollars offered for one of them if taken alive, but that fifty should be given if found dead, and no questions asked. Was not this, he said, encouragement to put a period to that man's existence? Horrid reward! Could gentlemen hear it and not shudder?

Mr. BLOUNT said, the gentleman last up was mistaken in calling the petitioners free men; the laws of North Carolina, as he observed before, did not suffer individuals to emancipate their slaves, and he should wish to know what evidence there was to prove these men free, and except that was proved, the House had no right to attend to the petition.

Mr. SITGREAVES, in answer to the gentleman last up, said he would reverse his question, and ask what evidence he had to prove that these men are not freemen; can he prove they are slaves? They have stated that a law has been made in North Carolina with a view to affect their case, and bring them again into a worse slavery than before; they want to know whether they cannot obtain relief by their application to the Government of the United States. Under these circumstances, Mr. S. wished to know why their petitions should not be taken into consideration? Was there any thing in these men, he asked, that should prevent every kind of assistance being bestowed on them? Had they not an equal right to be heard with other petitioners? He hoped the House would not only give them a hearing, but afford them all the consolation of which their unfortunate case was susceptible. If the House were obliged, through a want of power to extend to the case, to object compliance with the prayers, yet, he hoped it would be done with all due tenderness; before hearing them, he thought it would be exceedingly unjust to decide. These people may produce documents sufficient to obtain favorable attention; therefore, it was impossible before they were heard to conceive whether the House could constitutionally grant relief or not. He could see no impropriety in referring it; the object of referring a case, was to inquire into facts; thus, the committee prepared the way for discussion in the House; and why the House should refuse to deliberate and discuss this case, he knew not.

Mr. HEATH was clearly convinced these people were slaves, and therefore hoped their petition would lie on the table. He would remind the gentleman that, if they undertook this business, they would soon have petitions enough of the same kind, and public business would be thereby prevented. It appeared to him to be more within the jurisdiction of the Legislature of that State; indeed, the United States had nothing to do with it.

Mr. MADISON said, he should be sorry to reject any petition whatever, in which it became the business of the House to attend; but he thought this case had no claim on their attention. Yet, if it did not come within the purview of the Legislative body, he thought, it might be suffered to lie on the table. He thought it a judicial case, and could obtain its due in a Court of Appeal in that State. If they are free by the laws of North Carolina, they ought to apply to those laws, and have their privilege established. If they are slaves, the constitution gives them no hope of being heard here. A law has been passed to prevent the owners of those slaves emancipating them; it is therefore impossible that any relief can be granted. The petitioners are under the laws of North Carolina, and those laws cannot be the interpreters of the laws of the United States.

Mr. SITGREAVES said, he was not prepared to deny that this petition is in the situation the gentleman from Virginia (Mr. MADISON) states; nor was he prepared to prove that it came under the power of the General Government; but he could see no kind of reason why it should not be sent to a committee who should examine the case and report whether it required Legislative interference, or whether it was a subject of judicial authority in the country whence the petitioners came. Many petitions, he said, were sent to the House, who referred them for investigation to a committee, and many had been reported as being under judicial power only, and as such been rejected here. If this underwent the same order, and should be found to be of a judicial nature, the committee would report so, and the House would honorably refuse it. This he thought the only just method.

Mr. RUTHERFORD concurred with the gentleman from Pennsylvania, that this memorial ought to be referred to a committee who would report whether these people had been emancipated, according to a law of the State of North Carolina, or not. The circumstances attending this case, he said, demanded a just and full investigation, and if a law did exist either to emancipate, or send these poor people into slavery, the House would then know. He doubted not, every thing just and proper would be done, but he hoped every due respect would be paid to the petition. In short, he was assured every member in the House would wish to act consistently. This case, from the great hardships represented in the petition, applied closely to the nicest feelings of the heart,



and he hoped humanity would dictate a just decision.

Mr. GILBERT hoped the petition would be referred to the committee proposed; he thought it laid claim to the humanity of the House. He thought every just satisfaction should be given, and attention paid, to every class of persons who appeal for decision to the House.

Mr. W. SMITH said, the practice of a former time, in a similar case, was, that the petition was sealed up and sent back to the petitioners, not being allowed even to remain on the files of the office. This method, he said, ought to be pursued with respect to the present petition. It was not a matter that claimed the attention of the Legislature of the United States. He thought it of such an improper nature, as to be surprised any gentleman would present a petition of the kind. These men are slaves, and, he thought, not entitled to attention from that body; to encourage slaves to petition the House would have a tendency to invite continual applications. Indeed it would tend to spread an alarm throughout the Southern States; it would act as an "entering-wedge," whose consequences could not be foreseen. This is a kind of property on which the House has no power to legislate. He hoped it would not be committed at all; it was not a proper subject for Legislative attention. He was not of the opinion of some gentlemen, that the House were bound to sit on every question recommended to their notice. He thought particular attention ought to be paid to the lateness of the session; if this subject were to be considered, too much time of the House would be devoured which was much wanted on important business.

Mr. THATCHER said, he was in favor of referring this petition. He could see no reason which had been adduced to prove the impropriety of receiving a petition from these people. The gentleman from North Carolina (Mr. BLOUNT) is of the opinion that these people being slaves, the House ought not to pay attention to their prayer. This, he said, was quite new language—a system of conduct which he never saw the House practise, and hoped he never should. That the House should not receive a petition without an evidence to prove it was from a free man. This was a language which opposed the constitutional freedom of every State where the Declaration of Rights had been made; they all declare that every man is born equally free, and that each has an equal right to petition if aggrieved—this doctrine he never heard objected to.

The gentlemen from Virginia (Mr. MADISON and Mr. HEATH) had said, it was a Judicial and not a Legislative question; they say the petition proves it, and that it ought not to be attended to. Mr. T. said, he saw no proof whatever of the impropriety of the House receiving it. There might be some Judicial question growing out of the case; but that was no reason, because it might possibly undergo a Judicial course, that the General Government were not to be petitioned. The gentleman from South Carolina (Mr. SMITH) had said, "that this was a kind of property on which the House could not legislate;" but he would answer, this was a kind of property on which they were bound to legislate. The fugitive act could prove this authority; if petitions were not to be received they would have to legislate in the dark. It appeared plainly that these men were manumitted by their masters; and because a number of men who called themselves legislators should, after they had the actual enjoyment of their liberty, come forward and say that these men should not remain at liberty, and actually authorize their recaptivity, he thought it exceedingly unjust to deprive them of the right of petitioning to have their injuries redressed. These were a set of men on whom the fugitive law had no power, and he thought they claimed protection under the power of that House, which always ought to lean towards freedom. Though they could not give freedom to slaves, yet he hoped gentlemen would never refuse to lend their aid to secure freemen in their rights against tyrannical imposition.

Mr. CHRISTIE thought no part of the fugitive act operated against freedom. He thought no good could be derived from sending the petition to a committee; they could not prove whether they were slaves or not. He was much surprised any gentleman in the House should present such a petition. Mr. C. said, he was of the same opinion with the gentleman from South Carolina (Mr. SMITH) that the petition ought to be sent back again. He hoped the gentleman from Pennsylvania (Mr. SWANWICK) would never hand such another petition into the House.

Mr. HOLLAND said, the gentleman from Massachusetts (Mr. THATCHER) said, "the House ought to lean towards freedom." Did he mean to set all slaves at liberty, or receive petitions from all? Sure he was, that if this was received, it would not be long before the table would be filled with similar complaints, and the House might sit for no other purpose than to hear them. It was a Judicial question, and the House ought not to pretend to determine the point; why, then, should they take up time upon it? To put an end to it he hoped, it would be ordered to lie on the table.

Mr. MACON said, he had hearkened very closely to the observations of gentlemen on the subject, and could see no reason to alter his desire that it would not be committed. No man, he said, wished to encourage petitions more than himself, and no man had considered this subject more. These men could not receive any aid from the General Government; but by application to the State, justice would be done them. Trials of this kind had very frequently been brought on in all the different courts of that State, and had very often ended in the freedom of slaves; the appeal was fair, and justice was done. Mr. M. thought it a very delicate subject for the General Government to act on; he hoped it would not be committed; but he should not be sorry if the proposition of a gentleman (Mr. SMITH) was to take place, that it was to be sent back again.

Mr. W. SMITH observed, that a gentleman (Mr. THATCHER) had uttered a wish to draw these people from their state of slavery to liberty. Mr. S. did not think they were sent there to take up the subject of emancipation. When subjects of this kind are brought up in the House they ought to be deprecated as dangerous. They tended to produce very uncomfortable circumstances.

Mr. VARNUM said, the petitioners had received injury under a law of the United States, (the fugitive act) and not merely a law of North Carolina, and therefore, he thought, they had an



undoubted right to the attention of the General Government if that act bore hard on them. They stated themselves to be freemen, and he did not see any opposition of force to convince the House they were not; surely it could not be said that color alone should designate them as slaves. If these people had been free, and yet were taken up under a law of the United States, and put into prison, then it appeared plainly the duty of the House to inquire whether that act had such an unjust tendency, and if it had, proper amendments should be made to it to prevent the like consequences in future. It required nothing more under that act than that the person suspected should be brought before a single magistrate, and evidence given that he is a slave, which evidence the magistrate could not know if distant from the State; the person may be a freeman, for it would not be easy to know whether the evidence was good, at a distance from the State; the poor man is then sent to his State in slavery. Mr. V. hoped the House would take all possible care that freemen should not be made slaves; to be deprived of liberty was more important than to be deprived of property. He could not think why gentlemen should be against having the fact examined; if it appears that they are slaves, the petition will of course be dismissed, but if it should appear they are free, and receive injury under the fugitive act, the United States ought to amend it, so that justice should be done.

Mr. BLOUNT said, admitting those persons who had been taken up were sent back to North Carolina, they would then have permission to apply to any of the courts in the State for a fair trial of their plea; there are very few courts in which some negroes have not tried this cause, and obtained their liberty. He agreed with the gentleman from Massachusetts, on the freedom of these men to procure their rights; it did not appear to him that they were free; true they had been set free, but that manumission was from their masters, who had not a right to set them free without permission of the Legislature.

Mr. KITCHELL could not see what objection could obtain to prevent these people being heard. The question was not now, whether they are or are not slaves, but it is on a law of the United States. They assert that this law does act injuriously to them; the question is, therefore, whether a committee shall be appointed to inquire on the improper force of this law on the case of these men; if they are freemen, he said, they ought not to be sent back from the most distant part of the United States to North Carolina, to have justice done them, but they ought to receive it from the General Government who made the law they complain of.

Mr. K. said, he had not examined the force of the law on the subject, and was not prepared to decide; there could be no evil in referring it for examination; when the committee would report their opinion of the subject and gentlemen be prepared to act on it.

On the question for receiving the petition being put, it was negatived—ayes 33, noes 50.<sup>[9]</sup>

## TUESDAY, February 7.

THOMAS SPRIGG, from Maryland, appeared, and took his seat.

### *Increase of Salaries.*

A bill was also received from the Senate for increasing the compensation of the members of the Legislature and certain officers of Government; which was read, and, on motion that it be read a second time, it was carried, 33 to 30. It was accordingly read a second time.

The bill contemplates an advance of \$5,000 to the present salary of the PRESIDENT OF THE UNITED STATES, and \$2,000 to the VICE PRESIDENT, to commence on the 4th of March next, and continue for four years; and that the members of the Senate and House of Representatives, the Secretary of State, the Secretary of the Treasury, the Secretary of War, Attorney General, Postmaster General, Assistant Postmaster General, Comptroller of the Treasury, Auditor, Register, Commissioner of the Revenue, Accountant of the War Department, the Secretary of the Senate, the Clerk of the House of Representatives, and the principal clerks employed by them, the Sergeant-at-Arms of the House of Representatives, the Door-keepers and Assistant Door-keepers of both Houses, have an advance of 25 per cent. upon their present compensation.

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Mr. PARKER moved that the further consideration of this bill be postponed till the first Monday in December next. He said they had lately had the subject of augmenting the salaries of all the officers here mentioned, except the PRESIDENT and VICE PRESIDENT and themselves, under consideration; and as they had resolved to refuse an advance to others, he trusted they should also refuse it to themselves. He thought the present an improper time to go into the subject.

Mr. HARTLEY wished the gentleman would consent to some day next week. He could not say he was ready to agree to the whole of the advances proposed, but he wished the subject to be taken into consideration, and perhaps by the time he had mentioned they might have some further information on the subject of our finances.

Mr. MACON said, the most regular way for the gentleman from Virginia to obtain his object, would be to move to have the bill committed to a Committee of the Whole, and made the order of the day for the 4th of March.

Mr. PARKER made that motion.

Mr. HARTLEY hoped this motion would not be agreed to, as it was a sort of manœuvre to get rid of the subject, which he did not approve. He would either have the bill negatived at once, made the order of some day in the present session, or postponed till the next.

Mr. AMES said gentlemen had no doubt a right to govern their own votes according to their own notions of propriety. No man had a right to prescribe to another. His conscience was no rule to any other man. But he thought he was authorized to say, they neither had nor claimed a right to do a right thing in a wrong way. To agree to the motion proposed, would be an insincere way of putting a negative upon the bill. He trusted gentlemen who wished this would do it in a more direct way. The compensation of the PRESIDENT and VICE PRESIDENT could not be augmented, he said, after they had entered upon their office; and to say they would take up the subject for consideration at a time when their powers would not exist, was an evasive manner, which he approved not. It was an easy thing for gentlemen to say *no* on the question, without taking this circuitous way of putting an end to the subject.

Mr. VENABLE thought the view of his colleague would be answered as well by a postponement to the 3d of March as to the 4th, and it would be more orderly. Nor did he think this way of disposing of the business called for the censure which the gentleman from Massachusetts had thrown upon it. It was a question upon which that House had already decided by a considerable majority. No new light had been thrown upon the subject, and he thought it by no means disrespectful to postpone it. It was well known that the effect of this motion would be a postponement for the present session. This was what he wished; and if his colleague would consent to alter his motion to the 3d of March, he should not hesitate to vote for it.

Mr. PARKER had no objection to the motion standing for the 3d of March, though he did not consider the motions for the first Monday in December or the 4th of March as unparliamentary. He thought the salaries of the PRESIDENT and VICE PRESIDENT high enough. The salaries of some of their public officers might at present be somewhat too low, but the time would soon come when the price of living would become lower, and then they would be fully adequate; and therefore he did not wish to see them advanced at present.

Mr. BUCK was opposed to putting off the question till the time contemplated by the present motion. To get rid of the subject in such a way, would be descending from that state of independence which they ought to preserve, and would have the appearance of a slight cast upon another branch of Government. If they were prepared to meet the question, they might as well meet it now as then. To agree to the motion proposed, would show a degree of cowardice, and effectually put it out of their power to consider and determine upon the subject. The Senate, he said, had found sufficient reason to originate this bill, and he thought, if it were only out of complaisance to them, the subject should not be treated in the way proposed. It was said that this subject had already been decided, but he did not think so. There had been no general proposition for augmenting compensation. They had had the subject under view partially, but he knew there were some members (he knew of one at least) who voted against any partial advance, because they thought it should be general. This was his motive. He thought all the officers of Government were upon an equal footing, and therefore he voted against advancing the salary of one and not of another—not because he thought they were already sufficiently compensated; he did not think they were. He wished, therefore, the subject for a general augmentation to come under discussion. If he should be convinced an advance was improper, he should give it up, and should be against putting the subject off to a time when it could not be considered.

Mr. HARTLEY again urged the propriety of postponing for a shorter period: he mentioned the 17th instant.

Mr. MACON said he was opposed to the bill *in toto*, and he considered the motion of the gentleman from Virginia as meant to try the question. He wished it to stand for the 4th of March, as at first proposed, because, if it stood for the 3d, the subject might be called up and acted upon on the last day of the session. He should therefore renew the 4th of March, because, if there were a majority who wished the bill to be rejected, it was desirable that as little time as possible should be lost upon the subject.

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The question for postponing till the 4th of March was put and negatived, 46 to 45.

Mr. PARKER then moved to have it postponed till the 3d of March.

Mr. HENDERSON thought it more proper to postpone till the 3d than till the 4th. He was ready, he said, to meet the question, either in a direct or indirect way. He had made a calculation, and found that the advances proposed would amount to from \$100,000 to \$110,000. Mr. H. believed our finances were not in a state to admit of this addition to our expenses; besides, he trusted every necessary of life would soon be reduced in price, so as to render any advance of salary to our officers unnecessary.

The question was put and negatived, 57 to 32.

On motion of Mr. HARTLEY, Friday week was proposed and negatived, there being only 35 votes for it.

Mr. GALLATIN moved that the subject should be made the order for this day. He said he had voted for postponing it till the 4th of March, with a view of getting rid of it; but since it must be considered, he wished it to be disposed of as soon as possible.

Mr. SITGREAVES proposed that it be made the order of the day for Monday.

The sense of the House was first taken for Monday and negatived, there being only 41 votes for it. It was then put for this day and carried, there being 58 votes for it.

**WEDNESDAY, February 8.**

## *Election of President.*

The SPEAKER informed the House that the hour was come at which they had appointed to meet the Senate, for the purpose of counting the votes for, and declaring the election of a PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, and that the Clerk would inform the Senate they were ready to receive them.

The Clerk accordingly waited upon the Senate, and the PRESIDENT and members of the Senate soon after entered and took their seats, the PRESIDENT on the right hand of the Speaker of the House of Representatives, and the members of the Senate on the same side of the Chamber; when the President of the Senate (Mr. ADAMS) thus addressed the two Houses:

*Gentlemen of the Senate and of the House of Representatives:*

The purpose for which we are assembled is expressed in the following resolutions. [Mr. ADAMS here read the resolutions which had been adopted by the two Houses relative to the subject.] I have received packets containing the certificates of the votes of the Electors for a President and Vice President of the United States from all the sixteen States of the Union: I have also received duplicates of the returns by post from fifteen of the States. No duplicate from the State of Kentucky is yet come to hand.

It has been the practice heretofore, on similar occasions, to begin with the returns from the State at one end of the United States, and to proceed to the other; I shall therefore do the same at this time.

Mr. ADAMS then took up the packet from the State of Tennessee, and after having read the superscription, broke the seal, and read the certificate of the election of the Electors. He then gave it to the Clerk of the Senate, requesting him to read the report of the Electors, which he accordingly did. All the papers were then handed to the tellers, viz: Mr. SEDGWICK, on the part of the Senate, and MESSRS. SITGREAVES and PARKER on the part of the House of Representatives; and when they had noted the contents, the President of the Senate proceeded with the other States, in the following order:

FOR JOHN ADAMS.	
North Carolina,	1
Virginia,	1
Maryland,	7
Delaware,	3
Pennsylvania,	1
New Jersey,	7
New York,	12
Connecticut,	9
Rhode Island,	4
Massachusetts,	16
Vermont,	4
New Hampshire,	6
	—
	71
FOR THOMAS JEFFERSON.	
Tennessee,	3
Kentucky,	4
Georgia,	4
South Carolina,	8
North Carolina,	11
Virginia,	20
Maryland,	4
Pennsylvania,	14
	—
	68
FOR GEORGE WASHINGTON.	
North Carolina,	1
Virginia,	1
	—
	2
FOR THOMAS PINCKNEY.	
South Carolina,	8
North Carolina,	1
Virginia,	1
Maryland,	4
Delaware,	3
Pennsylvania,	2
New Jersey,	7

New York,	12
Connecticut,	4
Massachusetts,	13
Vermont,	4
	—
	59
FOR AARON BURR.	
Tennessee,	3
Kentucky,	4
North Carolina,	6
Virginia,	1
Maryland,	3
Pennsylvania,	13
	—
	30
FOR SAMUEL ADAMS.	
Virginia,	15
FOR OLIVER ELLSWORTH.	
Rhode Island,	4
Massachusetts,	1
New Hampshire,	6
	—
	11
FOR SAMUEL JOHNSTON.	
Massachusetts,	2
FOR JAMES IREDELL.	
North Carolina,	3
FOR JOHN JAY.	
Connecticut,	5
FOR GEORGE CLINTON.	
Georgia,	4
Virginia,	3
	—
	7
FOR CHARLES COTESWORTH PINCKNEY.	
North Carolina,	1
FOR JOHN HENRY.	
Maryland,	2

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All the returns having been gone through, Mr. SEDGWICK reported that, according to order, the tellers appointed by the two Houses had performed the business assigned them, and reported the result to be as above stated.

The PRESIDENT of the Senate then thus addressed the two Houses:

*Gentlemen of the Senate and of the House of Representatives:*

By the report which has been made to me by the tellers appointed by the two Houses to examine the votes, there are 71 votes for John Adams, 68 for Thomas Jefferson, 59 for Thomas Pinckney, 30 for Aaron Burr, 15 for Samuel Adams, 11 for Oliver Ellsworth, 7 for George Clinton, 5 for John Jay, 3 for James Iredell, 2 for George Washington, 2 for John Henry, 2 for Samuel Johnston, and 1 for Charles C. Pinckney. The whole number of votes are 138; 70 votes, therefore, make a majority; so that the person who has 71 votes, which is the highest number, is elected President, and the person who has 68 votes, which is the next highest number, is elected Vice President.

The PRESIDENT of the Senate then sat down for a moment, and rising again, thus addressed the two Houses:

In obedience to the Constitution and law of the United States, and to the commands of both Houses of Congress, expressed in their resolution passed in the present session, I declare that

JOHN ADAMS is elected President of the United States, for four years, to commence with the fourth day of March next; and that

THOMAS JEFFERSON is elected Vice President of the United States, for four years, to commence with the fourth day of March next. And may the Sovereign of the Universe, the ordainer of civil government on earth, for the preservation of liberty, justice, and peace, among men, enable both to discharge the duties of these offices conformably to the Constitution of the United States, with conscientious diligence, punctuality, and perseverance.

The PRESIDENT and members of the Senate then retired, and the House came to order; when Mr.

SITGREAVES made a report on the business, which was read and ordered to be entered on the journals.

## THURSDAY, February 9.

### *Election of President.*

Mr. SITGREAVES, from the joint committee appointed to confer with a committee of the Senate on the subject of the election of a PRESIDENT and VICE PRESIDENT, made a further report, viz: that they had agreed with the committee of the Senate to recommend to the House of Representatives the following resolution:

"*Resolved*, That the Clerk of this House be directed to give, by letter, to the Vice President elect, a notification of his election."

This resolution was agreed to; but some time afterwards, Mr. PARKER (one of the committee) wished it to be rescinded, as he understood, though the committee from the Senate had concurred in this mode of notifying the VICE PRESIDENT of his election, the Senate would not agree to it, but wished to follow the mode adopted on a former occasion, viz: a message was sent from the House of Representatives to the Senate, directing that the persons elected should be notified in such a manner as they should direct. He wished, therefore, to prevent delay, the resolution might be rescinded and a different one agreed to. This motion occasioned a good deal of conversation. It was observed by the SPEAKER that the resolution was already before the Senate, (where it seemed it was not intended to be sent, as it was a distinct resolution of that House, a similar one to which was proposed for the adoption of the Senate by the joint committee.) It was at length, however, agreed to be rescinded. Immediately after which a message was received from the Senate, informing the House that they had disagreed to the resolution, and appointed a committee of conference. The House accordingly took up the message, and also agreed to appoint a committee of conference.

### *Compensation to Public Officers.*

Mr. PARKER then renewed his motion, and the House resolved itself into a Committee of the Whole on the bill respecting compensations, Mr. MUHLENBERG in the chair; when

Mr. PARKER moved to strike out the first clause. He thought it necessary to make some additional allowance to the PRESIDENT, but he would do it in a different way from that proposed. When the present PRESIDENT came into office, he said, he had a quantity of furniture presented him, which might now be nearly worn out, and be of little value. It might be proper, therefore, to purchase new furniture for the gentleman just elected. It would be also during the period of the present Presidency that Government would remove to the Federal City, which would be attended with a good deal of expense to the PRESIDENT. He should wish, therefore, that a provision should be made for defraying that expense, and also for the purchasing of new furniture, but he should be opposed to the making of any addition to the salary at present.

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Mr. HARTLEY spoke in favor of retaining the clause.

Mr. R. SPRIGG said he should vote against the proposed advance of salary, and could not consent to any other mode of augmenting the present compensation allowed to the PRESIDENT. He could by no means agree to the plan proposed by the gentleman from Virginia; for, if they were to renew the furniture of the PRESIDENT every four or eight years, it would be found a pretty expensive business. That gentleman had also mentioned the removal of the Government, as taking place during the next Presidency; but, he said, the new election would happen about the time of removing the Government, and provision for paying that expense might be made at that time. He thought the salaries were already sufficiently high, and that it would be with difficulty that money was found to pay the present expenses of Government.

Mr. WILLIAMS was of opinion, on the score of economy, that it would be better to advance the compensation of the PRESIDENT in the way proposed by the present bill, and let him purchase his own furniture, than to purchase new furniture, which, perhaps, when the Government was removed, would not be suitable for his house in the Federal City. Mr. W. said he was one of the committee on the subject of compensation, and they endeavored to ascertain whether the twenty-five thousand dollars allowed to the PRESIDENT were an adequate compensation. It was generally believed it was not. They ought, he said, to enable their First Magistrate to live in a style becoming his situation. All their Executive officers should receive such salaries as would enable them to see company agreeably to their rank, otherwise the respectability attached to those offices would suffer greatly in the public opinion. He hoped, therefore, the section would not be struck out.

Mr. BUCK said, as the motion now made was to try the principle, it would be well to go into an examination of the subject. He said he had never been a champion for raising salaries, or a stickler for lowering them; but, as the subject was brought before them, he should cheerfully declare his sentiments upon it. He conceived the true question to be, whether it was right and just that they should augment the salaries of the officers of Government and the members of the Legislature, or whether the present compensations were just and adequate to the sacrifices which they made in undertaking the business of Government. Because he did not believe, with some other gentlemen, that they were to estimate the compensations of their officers in proportion as money was scarce or plentiful in the Treasury, nor did he believe there was a real

distress in Government for want of money; but their difficulties arose from a difference of opinion in that House on the mode of raising money. He believed there were persons who thought Government squandered away the public money; that its officers divided the loaves and fishes amongst them; and that the only way in which this profusion of expense could be checked was by pursuing a system of direct taxation, which would make the people feel the amount which they contributed to the support of Government. He should not undertake to examine this principle, nor deny that such facts might exist. It would be enough to look at existing circumstances in our country, and see how far they would apply. Our Government, he said, rested on public sentiment for support, and must always be regulated by it. He was willing, he said, to go all lengths with gentlemen in adopting a system of taxation calculated to raise a permanent revenue. Nor was he apprehensive for the result, when dictated by reason and justice.

Contemptible must be that state of Government, said Mr. B., where its public officers are starved for want of a proper spirit in the people to support them. Is America, said he, arrived at this melancholy state? If she were, God forbid she should ever experience another revolution! Is this all our boasted acquisition, in return for the struggle we have made for our country? No; he denied the fact. America was not reduced to that state which will not allow her to pay the expenses of her Government, nor is she unwilling to pay them; neither is public sentiment so debased as not to approve of any measure which shall be taken to secure a handsome maintenance for our officers. There was no occasion for hypocrisy in the business; he was willing to state the whole truth plainly to his constituents. He should not think of telling them they were giving too high salaries for their officers, when he knew, that, owing to their insufficiency, they were diminishing their own private fortunes. Nor did he wish to intrench on his own property in serving the public; he believed there was no occasion for this. He should, therefore, speak plainly to them.

Mr. B. said, he would inquire whether the present salaries were a reasonable and just compensation for the services performed? In respect to the PRESIDENT OF THE UNITED STATES, it was said that he had already a large salary. He knew that twenty-five thousand dollars had a great sound in the ears of many, but he trusted the people of the United States not only possessed just views of Government, but that they also possessed virtue to support the just measures of Government, and would not consent that their Executive officers should be placed on such a footing as to be looked down by officers from foreign countries who moved in a lower sphere. Therefore, when they looked into the reason of the thing, and found their present salaries were unequal to their support, not in the style of splendor observed in foreign courts, but according to the manner of living in Philadelphia, would they not be willing to increase them? He believed they would.

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The present PRESIDENT, he said, was a man of fortune, and never took from the Government more than would support his table, either during the war or during his Presidency. And what, he asked, did these expenses amount to? To the whole sum allowed him by law. But were they always to expect to have a PRESIDENT who would give his services to his country? Or had the PRESIDENT set a bad example, by living in a style of extravagance and splendor? He believed this was not the opinion of Americans, or that of foreign countries. If, then, the present PRESIDENT had lived upon his own fortune, and the whole of his compensation had gone to defray the expenses of his table, if this compensation was not advanced, how were future Presidents to come forward, to support the same style? They could not do it without infringing on their own fortunes. And do the citizens of the United States, he asked, wish their First Magistrate to be placed in this situation? He could not think so. He believed they meant to make ample provision for his support; and if the present provision was found inadequate, they would condemn their Representatives; they would say they did not support the dignity of their country, if they neglected to advance it.

The same observations, Mr. B. said, would apply to the VICE PRESIDENT, and to other officers of Government. He did not wish the salaries of their officers to be such as should enable them to make fortunes out of them, but he would have them sufficient to afford a handsome living. Were they so at present? He believed not. It had been said, the other day, that they could not afford to live in the same style with persons who stood on the same footing with them before they went into office. He could not say whether they were obliged to intrench on their own private fortunes; if it was so, he asked if it were reasonable or just that they should be so placed? It certainly was not; and, therefore, convinced as he was that the people of the United States were willing and able to support the expenses of their Government, and that they wished their officers to have a just and reasonable compensation, which should not only enable them to make a respectable appearance in the eyes of their own citizens, but in those of foreigners, he should have no scruples in giving his consent to the advances proposed.

As to the compensation allowed to the members of that House, here he had knowledge; he could speak from experience. He could say that he had diminished his income one thousand dollars a year since he had a seat in that House. Did his constituents, he asked, wish this? He believed not. They did not wish him to intrench on his private fortune while he was serving them. They did not expect him to squander away their money in profusion, nor did he; he lived in the most economical style; but they wished his reasonable expenses to be paid. Besides, said Mr. B., were the rates of compensation, when first established, established upon this principle? He thought not. They were then thought to be a just and reasonable compensation; and, if it was not then unreasonable, it could not now be reasonable. Was it right, he asked, when every kind of labor was higher by one third or one-half than at that time, that the compensations allowed to persons employed by Government should remain stationary? He could not conceive that this was either just or proper, or that the citizens of the United States wished it.

If any conclusion might be drawn from the practice of individual States, they would be warranted in making the proposed advance, since many of their Legislatures had advanced the pay of their members. Indeed, he believed the people were generally convinced of the necessity of advancing the compensations allowed to the officers of Government and members of the Legislature, under the present circumstances.

Mr. B. said he was not for making a permanent increase of salaries, except to the PRESIDENT and VICE PRESIDENT. He did not conceive that the members of the Legislature ought to have more than was sufficient to support them, without obliging them to infringe upon their own fortunes. He wished the advance thereof to operate no longer than until the present existing circumstances were removed; he should move, therefore, to have the duration of this regulation for one year, instead of two, as it was possible in the mean time the price of living might be so reduced as to make the additional allowance no longer necessary.

Mr. RUTHERFORD said, if gentlemen reasoned together for a moment, they would be convinced this measure was altogether improper and unjust. Our present PRESIDENT, said he, is looked up to with reverence, as to Cincinnatus, as a good republican. When the commissioners from the Republic of Holland went to treat with Spain, they went in a style of such simplicity as to command the greatest respect. They afterwards appointed a Stadtholder, a man of great reputation and patriotism doubtless, like our PRESIDENT; but, as soon as they suffered themselves to lose sight of their simplicity and plainness of manners, and got into the policy and splendor of Courts, they were enslaved by their Stadtholder; for, within these few years, the office of Stadtholder has been declared hereditary. What an extravagance is this; that a man should be born a Stadtholder or a King! While the Roman people maintained their simplicity of manners, while Cincinnatus was amongst them, they were a happy people; but when they lost sight of their plainness of manners, they lost sight of their happiness. Let us look at our sister rising Republic, and observe how they are doing away all pomp and pageantry in their Government and country, and aiming at a simplicity of manners; but, said he, I fear we have not lost sight sufficiently of kings, priests, and courts. This was his dread. It was necessary to bound these ideas. Patriotism could not be purchased, and should they despair of getting a man to fill the office of PRESIDENT without they increased the salary? Must they hire a man for this purpose? No, they should not be obliged to do this; there would always be found men of abilities and patriotism to fill that office, without any view to pecuniary advantage.

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Mr. DENT said the question was to make an amendment by striking out the first section. Being in favor of that part which contemplated the addition of five thousand dollars to the salary of the PRESIDENT, and opposed to any addition to that of the VICE PRESIDENT, he wished the question divided, in order to accommodate his vote.

The Chairman said the motion was to strike out the whole section, and it could not be divided.

The motion for striking out was then put and carried—56 members being in favor of it.

### ***Election of President.***

A message was received from the Senate informing the House that the VICE PRESIDENT had laid before them the following communication:

#### *Gentlemen of the Senate:*

In consequence of the declaration made yesterday in the Chamber of the House of Representatives of the election of a President and Vice President of the United States, the record of which has just now been read from your journal by your Secretary, I have judged it proper to give notice that, on the 4th of March next, at 12 o'clock, I propose to attend again in the Chamber of the House of Representatives, in order to take the oath prescribed by the Constitution of the United States to be taken by the President, to be administered by the Chief Justice or such other Judge of the Supreme Court of the United States as can most conveniently attend; and, in case none of those Judges can attend, by the Judge of the District of Pennsylvania, before such Senators and Representatives of the United States as may find it convenient to honor the transaction with their presence.

### **FRIDAY, February 10.**

#### ***Naval Policy: Purchase of a Site for a Navy Yard.***

The next resolution which came under consideration, was that proposing the purchase of a site for a navy yard.

Mr. PARKER doubted, from the spirit which seemed to be shown on this occasion, that this resolution would not pass.

Mr. W. SMITH hoped this would be agreed to. Whatever gentlemen may now think or determine on, it was probable we should at some time become a naval power; and even with the most distant prospect of that, it would show economy to prepare for it. He said it never could be too soon to begin the business, and the most effectual method of procuring live oak, and preserving it, was to take the earliest means to obtain, and secure it, when obtained, for seasonable use. He read an extract from the Secretary of War's report in support of the plan.

Mr. COIT said he was alarmed at the expense of this business. He saw in the report the salaries of two persons already at Norfolk and Portsmouth, for taking care of the timber, at 500 dollars each, 1,000 dollars. If they were to pay at this rate for overlooking the timber for one ship, what might they expect would be the expense of a navy yard?

Mr. PARKER said, the persons to whom these salaries were paid, took care of the timber at Norfolk and Portsmouth. It was necessary that some person should look after it, or it should be disposed of; but, in case the present resolution was agreed to, there would be no occasion in future to pay these persons, as all the timber and other materials would be stored in the navy yard. He said he had received an estimate from the War Office of the expense which would be likely to attend the establishment of a navy yard. The expense of 100 acres of land, and all the necessary buildings, was estimated at 37,210 dollars.

Mr. NICHOLAS said, after having squandered so much money in getting timber for these vessels, he thought some change of habit should take place before they embarked largely in this matter. They had given twice or thrice as much as the timber was worth, yet they were now called upon to go on in the same course. It was not a time for going into this business. If such a thing was even proper, two or three years could make but little difference, and there could be little doubt but every thing could then be bought at half price. This, however, was not his principal objection. It was this: he did not want to see any such establishment; a navy would never do any real good to this country, but would increase the unhappiness of it. It would require large sums of money to support it; its benefits were doubtful, and it might be of very mischievous consequence to the nation.

Mr. SWANWICK said he entirely agreed with the gentleman from Virginia (Mr. NICHOLAS) that there was a necessity for some change of habit; they appeared to be getting that change at present, and whatever their habits were at present, he supposed they would come right at last. Whatever might be their opinion of the necessity of a naval force, the European nations, he believed, would convince them of the necessity of it, if they only gave them time enough.

It was an extraordinary thing to look at the progress of economy in that House with respect to these frigates. In the first place, six frigates were necessary; they were afterwards reduced to three, and because an officer was appointed to take care of the timber left on hand, a gentleman from Connecticut wondered that \$500 should be so employed. A motion had been made to confine the Executive to finish the hulls of the ships only. This would have been a strange economy. Indeed, such attempts were made at economy on this business as were never introduced upon any other. The gentleman from Virginia (Mr. NICHOLAS) had observed there was no use for ships at all. If the House were of that opinion, such a resolution had better at once be come to; but the strange sort of hesitating conduct which was adopted, exceeded all that he had heard of in legislation.

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Had gentlemen who declared these vessels to be of no use, contemplated the situation of this country; that it depended wholly upon commerce for revenue; that that commerce was now put in jeopardy, and that no substitute had been found for the revenue thence arising? And would not all this hesitation, whenever the subject of a navy came under consideration, tempt European nations to continue their unjust depredations upon our property at sea? It certainly would.

But even gentlemen who wished to confine themselves merely to the finishing of the vessels at present, would not surely think it improper for them to establish a navy yard, and to secure timber for future use. Did those gentlemen consider what it was to deprive the country of a rich mine of ship timber? If they hesitated on this subject, they surely did not.

What had been said by the gentleman from Maryland on the subject of Algiers, was very just; and the want of a navy power would have a similar effect upon all our negotiations, as foreign nations would rise or fall in their demands, according to our power at sea. The money thrown away upon Algiers to purchase peace, would have been much better employed in building ships; for if we had a few ships, that power would not have committed the depredations upon us which she had done. And whether the money was paid to Algiers or expended in building ships, it was in both cases for the same purpose, viz: the protection of commerce. But there was this great difference between the two expenditures. In the one case, the dollars were shipped off to a foreign country, and in the other, they were paid to our own citizens. The iron used was from our own mines; the guns from our own manufactories; the hemp, and every other material, were of our own growth and manufacture, so that the money went into the hands of our artisans, manufacturers, and farmers. And, therefore, though the frigates had cost a great deal of money, it was some modification of the expense to consider that the money was gone into the pockets of our own citizens. But, he asked if the loss we sustained for the want of a naval power could be estimated? He said it could not. We not only lost our property, but our seamen, and they were not only lost to us, but were probably in the service of those countries which were committing depredations upon us. The loss of property might be recovered; but a hardy race of seamen once lost, could not be recovered.

What an affecting spectacle had we the other day of sixty of these unfortunate men returning from Algerine slavery? They were received into the arms of their country with all the sympathy which the occasion called for; but could gentlemen help feeling, at the same time, for the impotence of our Government, when they recollected that the liberty of these men had been purchased at a very high price from a petty despot? And shall we continue to go on thus, and encourage the Barbary powers to enslave our seamen by showing so great a reluctance to enter upon any measure which might afford a defence against their depredations?

Mr. MURRAY believed it would be a very prudent measure to secure the ship-timber in question;



for if we did not, it was probable some foreign nation would get possession of it. He did not know whether the laws of Georgia would permit foreigners to purchase the land upon which this timber grew; but if they would not, it would be no difficult thing to get possession of it through the medium of an individual. If this country were to become a maritime power, and no one who considered the subject for a moment could doubt it, this was too rich a mine to be neglected. What had been said about adopting the Chinese policy, might serve to amuse them; but when they looked at the commerce of the country, it was impossible they should not see the necessity of a naval force to protect that commerce against the depredations of any nation who chose to attack it. Indeed, it was come to this, they must either provide for the protection of commerce, or deny the utility of it, and give it up altogether.

But the gentleman from Virginia (Mr. NICHOLAS) was afraid if these frigates were sent out to sea, they would involve us in a war. What! said he, can it be supposed that three frigates would give us that ridiculous kind of spirit which would induce us at any rate to go to war? This would be a species of insanity which he did not think it was probable we should fall into. No: these vessels would serve to protect our coasts, and preserve our commerce from attacks, at least, within a small distance from our own ports. How far they might serve to render us of some importance in the eyes of foreign nations, he could not tell; but he believed that three frigates would have a greater effect in this respect with us, than ten to Sweden, Denmark, or Holland. We lie, said he, near the high road of commerce to the West Indies, and these three frigates, backed by national wealth, would show a disposition to become a maritime power, and would have their effect upon European nations.

Besides, Mr. M. said, these vessels would be the foundation of a future Navy. He was for shaping our means of defence to the means of offence employed against us by other nations; for until the European nations became wise enough to cease from war, it was necessary to provide means of defence against their attacks. He should, therefore, always give his support to every means of national defence. He wished our nation to stand upon a respectable footing as a nation, since the most magnanimous conduct was no security against the attacks of foreign powers. He should, therefore, be in favor of a naval yard, and of providing ship-timber for future use.

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Mr. HARPER said, the two resolutions respecting a naval yard and a provision for timber should come under consideration together; because, if no provision was made for purchasing timber, a naval yard would be of no use.

This question, he said, was capable of being considered under two points of view: the one whether the measure was proper; the other, if the measure was proper, whether it would not be better postponed for the present. Both of these points required a considerable degree of attention. There was a variety of considerations on both sides of the question, and it remained for them to determine for the best.

Was it proper for this country, he asked, to turn its attention towards marine strength? Did not our situation, and the circumstances in which we stand, compel us to turn our attention to this object? He thought they did, and for one or two reasons which he would submit to the consideration of the committee.

It appeared to him out of the question that any kind of commerce should be continued without some ships-of-war to protect it. This was the dilemma in which we were placed. It was said by some gentlemen that this dilemma might be avoided, by suffering commerce to go on unprotected, and subject it to all risks; and that even then, there would be sufficient benefit arising from it, to induce its continuance. This he did not believe. If persons engaged in commerce could have no dependence upon the protection of Government, a very few years, perhaps a few months more, might convince them that the business could not and ought not to be continued.

The present Government, he said, had only been in existence eight years, and for nearly four of them commerce had been subject to every kind of depredation. The usual calculation with respect to Europe was, that during every ten years, it would be subject to war, and that these wars would have a duration of from six to eight years, in the course of which our property and citizens would be subject to the same violations and injuries which they had for the last four years experienced, if no provision was made, by a naval power, to prevent it.

Brought to this dilemma, said he, which side will you take? Will you give up commerce, or build a Navy to protect it? Besides, he said, a great part of our citizens who had been trained up in commerce from their infancy, could not be driven from that kind of employment to which they had always been accustomed. They could not be induced, like the Chinese, to stay at home; they would be engaged in commerce, their favorite pursuit. If they, then, were compelled to protect commerce, he asked if there was any other way of doing it than by a Navy? He believed not. Treaties afford a feeble and very inadequate protection; they were broken whenever it suited the interest of a nation to break them. Letters of marque might afford some protection; but this would operate as a heavier tax upon the people than even the support of the Navy. The money which a merchant expended in this way would eventually come upon the people in the price which they would be obliged to pay for their merchandise, and the means would be very inadequate to protection.

In China and the East Indies, Mr. H. said, the inhabitants could shut themselves up within their own territory, and avoid any intercourse with foreign nations. In countries so far removed from Europe, as to prevent any one nation from making a monopoly, of its trade, this policy might exist. But could America lay up her ships, and say she would open her ports to all nations? No; that very instant you give up your trade to that nation which has the greatest power at sea; for

she will immediately block up your ports, and oblige you to trade with them only. In order, therefore, to trade with all nations, we must be the carriers of our own produce, for other nations would not leave us at liberty to do so. The strongest power would say to the others, you shall not trade with these people, you shall do so and so, or we will go to war with you. You must, therefore, said he, protect your own trade.

Will these resolutions, then, said he, if adopted, tend to this point? He believed they would. To provide a dock-yard, and to take care of a supply of timber suitable for the purpose of ship-building, were very essential steps. Much expense, he said, would be saved in carrying on the building of several ships together in one yard, instead of having them scattered in different parts of the Union. Timber might also be laid up to season in this yard, so as always to be ready for use; for, he believed that much of the delay which had attended the building of the ships now on the stocks, had been owing to the difficulty which had attended the procuring of proper timber. Besides, Mr. H. said, its being known to foreign nations, that you had provided a dock-yard, would have some weight; it would at least have the appearance of an intention of building a Navy.

With respect to the purchasing of land clothed with live oak timber, he thought it a very desirable measure. It was well known that this timber was confined to a few spots—a few sea islands on the coast of South Carolina and Georgia, and some small strips along the seashore; and in each of these places there were only a few trees of a sufficient size for building large ships. The land upon which these trees grew, since the cultivation of cotton had been introduced into those parts, was become valuable land for that purpose. This induced the people to cut down the timber and burn it, for the sake of getting the land, and there was no way of arresting this practice, but by securing the land; and being of so good a quality, when the trees were cut down, it would probably sell for a greater price than was originally given for it.

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Mr. GALLATIN saw no connection between the two resolutions, which the gentleman who had just sat down thought it necessary to connect together. The last resolution proposed the purchase of land clothed with live oak; the present proposed the appropriation of a sum of money for purchasing the site of a naval yard, &c., as a foundation for a Navy. The last went only to the securing of timber for the building of a Navy, if at any day it should be thought necessary; he believed he should vote for the last, but certainly against the first.

They had been told that no commerce could exist without protection, and that that protection must be a Navy; from whence it would follow, that if a Navy was necessary to protect commerce, it must be a Navy competent to vie with the navies of other nations. He would here ask, how gentlemen drew their conclusion, that commerce could not exist without the protection of a Navy. He wished they would show from the example of any nation in Europe, or from our own example, that commerce and navies had gone hand in hand. There was no nation, except Great Britain, said he, whose Navy had any connection with commerce. No nation, except England and Holland, had more to do with commerce than this country, and yet we had no Navy; and though for the four last years this commerce had been subject to continual depredations, it was not exceeded by any nation, except the two he had named. And if they looked to Europe, they would find there was no connection between navies and commerce. Russia and Sweden had considerable navies, but little commerce; whilst Holland, whose Navy was by no means large, ranked next to England with respect to commerce. Hamburg, he said, was one of the first commercial States in Europe, yet she had no Navy. Navies, he said, were the instruments of power, more calculated to annoy the trade of other nations than to protect that of the nation to which they belong.

But there was another position which he should take in opposition to gentlemen who supported the creation of a Navy, viz: that however useful or desirable a Navy might be, this country was not equal to the support of one. We might have two or three frigates indeed, but, when he said we could not support a Navy, he meant to say we could not support such a Navy as should claim respect, in the sense which those gentlemen spoke of it; such as being an object of terror to foreign nations. If they calculated what the three frigates had cost, considered the scanty manner in which this country was peopled, our inability to raise any very large revenue, and the high price of labor, the truth of this assertion would appear evident.

Again, if such a Navy were created, how was it to be manned? He wished gentlemen to point out any mode in which a Navy could be manned in this country without having recourse to the abominable practice of impressment. If the nations of Europe found it impossible to man their fleets without having recourse to these violent means, he believed it would be impossible, without breaking down those barriers which secured the liberty of every citizen, to man a Navy in this country.

Perhaps he might be asked, if we were, then, to be left without protection? He thought there were means of protection which arose from our peculiar situation, and that we ought not to borrow institutions from other nations for which we were not fit. If our commerce had increased, notwithstanding its want of protection; if we had a greater number of seamen than any other nation, except England, this, he thought, pointed out the way in which commerce ought to be protected. The fact was, that our only mode of warfare against European nations at sea, was by putting our seamen on board privateers, and covering the sea with them; these would annoy their trade, and distress them more than any other mode of defence we could adopt.<sup>[10]</sup>

**MONDAY, February 13.**

## *Purchase of Live Oak Lands.*

Mr. HARPER said, that though the House had declined coming to a resolution to authorize the PRESIDENT to purchase certain lands in Georgia, clothed with live oak and red cedar timber, as a reserve for future naval purposes, yet there seemed to be a disposition to cause an inquiry to be made on the subject. He therefore proposed a resolution to the House to the following effect:

*"Resolved,* That the President of the United States be authorized and requested to cause to be made and reported to this House as early as may be after the meeting of the next session of Congress, an inspection of lands furnished with live oak and red cedar timber, with the relative advantages of different situations with respect to their fitness for naval purposes, and the rates at which purchases may be made."

Ordered to lie on the table.

## *John de Neufville.*

On motion of Mr. MADISON, the House resolved itself into a Committee of the Whole on the following report of the committee, to whom was referred the memorial of Anna de Neufville, widow of John de Neufville, deceased. They report—

"That the services and sacrifices of the said John de Neufville to the United States, during the war of their Revolution, as stated in the said memorial, and vouched by the testimonies herewith reported, constitute a reasonable claim, in behalf of his, at present, very distressed widow and children, on the justice of the United States. That it being impossible, from various and peculiar circumstances incident to the services rendered, to ascertain and liquidate the compensation due into a precise sum, it is necessary for Congress to decide on and provide for such allowance as may be deemed equitable and right. That, in the opinion of the committee, the sum of three thousand dollars may be a proper allowance. They therefore propose the following resolution:

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*"Resolved,* That provision ought to be made, by law, for granting to the widow and two children of John de Neufville, the sum of three thousand dollars, to be equally divided among them."

This report was advocated by MESSRS. HARPER, W. SMITH, SWANWICK, HAVENS, HEATH, THATCHER, VARNUM, and RUTHERFORD. They stated that the husband of the petitioner, John de Neufville, was an eminent merchant at Amsterdam; that he was an influential character there, and, at an early period of our Revolutionary war, entered with great zeal into the interests of America; that, meeting with Mr. William Lee, the Commissioner of the United States, he endeavored to bring about a treaty between the United Netherlands and the United States, which being discovered by the British, that Court used its influence with the Government of that country to harass and drive him out of the country; that during his residence at Amsterdam, his house was a constant asylum for American citizens; that he had made large advances in money for the service of the United States, which obliged him to extend his credit beyond what was warranted by the regular course of trade, and a failure in the payment of which (owing to the embarrassed circumstances of the United States at that time) had greatly injured him, and left him to the mercy of his creditors. The consequence was, he was reduced from affluence to poverty at an advanced period of life. Some years ago he arrived at Boston with his wife and two children, where he subsisted in a very humble manner upon the bounty of his friends in Holland; those friends having, by the reverses occasioned by the Revolution, been much injured in their property, could afford him but a scanty pittance; but Mr. de Neufville being dead, the petitioner was deprived of this assistance; and, to add to her repeated misfortunes, the son of her late husband, from their multiplied sufferings, had been deprived of his reason. Under this pressure of grievances, the petitioner was come from Boston to lay her case before Congress, and pray relief. This peculiarly distressing case was supported with great zeal and feeling by its advocates, particularly by Mr. HARPER.

The claim was opposed by Messrs. COIT, SWIFT, and NICHOLAS. An application, it seems, was made by Mr. de Neufville, during his life-time, for redress; upon which the then Secretary of State (Mr. JEFFERSON) reported. This report, after stating all the facts upon which the claim was founded, gave it as his opinion, that the petitioner had no real claim on the United States. This report, it seems, had never been acted upon. The reading of it, as well as of all the documents relative to this claim, was called for, and they were accordingly read. The opposers of this claim acknowledged the distressed situation of the petitioner, but denied the justice of her claim upon the United States; the treaty which Mr. de Neufville proposed to enter into with Mr. Lee, they supposed, was a treaty which he believed would prove beneficial to his country, and not to the United States: that there were many claims in our own country from persons who had been injured by the war, the justice of which was less equivocal, and the distress at least equal. Mr. NICHOLAS said, a few days ago only, a poor man, whose health had been so much impaired in the war, that he was unable to earn his living, had applied to him to bring his case before Congress, yet, as the pension law affords no relief to any person, except he had been wounded, he was obliged to inform him that he could do nothing for him. There were multitudes of such instances, equally distressing with the present, to which no relief could be afforded.

Mr. THATCHER moved to have the three thousand dollars struck out, and five inserted. This was negatived—45 to 37; but the resolution was agreed to as reported—yeas 63, nays 25.

**THURSDAY, February 16.**

***John C. Symmes.***

Mr. GALLATIN said, a report had been made upon the contract between John C. Symmes and his associates, and the United States, which it was of importance to pass into a law this session, as the object was four hundred thousand acres of land, which was worth about eight hundred thousand dollars.

The House accordingly resolved itself into a Committee of the Whole on the subject, when the report, which was very long, having been read, the committee agreed to the resolution reported, which was in the following words:

*"Resolved,* That a committee be appointed to bring in a bill to authorize the President of the United States to grant, in fee simple, to John C. Symmes and his associates, that part of a tract of land, the boundaries whereof are ascertained by a survey executed in conformity to the act of Congress, entitled 'An act for ascertaining the bounds of a tract of land purchased by J. C. Symmes,' and returned to the Treasury Department the 10th of January, 1794, which is not included within the bounds of a grant already made, on September 8, 1794, to the said J. C. Symmes and his associates; excepting and reserving out of the same the lots reserved by the original contract, entered into between the United States and the said Symmes and his associates; provided that the said Symmes and his associates shall previously, in conformity to the terms of the original contract, make the requisite payment for the tract to be granted to them, and for the 47,625 acres, part of the grant already made to them on the 30th September, 1794, for which they have not yet paid any consideration; and provided, also, that the township reserved for an Academy shall have been previously laid off and secured, according to the terms of the contract, and of the resolutions and law of Congress relative thereto."

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**FRIDAY, February 17.**

***Increase of Duties.***

**BROWN SUGAR.**

Mr. W. SMITH said, the proposed increase, it was calculated, would raise 110,000 dollars, and as the article was not liable to be smuggled, nor its consumption to be decreased, it would be a certain, and he thought, an eligible tax.

Mr. HOLLAND had no doubt but this tax would augment the revenue; but he knew also that it would fall more upon the poor than upon the rich, and he thought they ought not to add to their burdens. He thought there were other articles which would bear some addition, but either brown sugar or salt would be much felt. If they studied that which would be burdensome, here they might fix, but he hoped this was not the principle. By advancing an article so universally used, a rise of labor (already too high) must naturally follow.

Mr. KITCHELL believed the rich and opulent would bear their portion of this tax as well as the poor, as it would fall upon fine sugar as well as upon brown. It would therefore be paid in proportion to the sugar used, and would fall as equally as any other tax which could be laid.

In this instance, Mr. K. said, gentlemen seemed apprehensive of the poor bearing too great a part of the burden; but, if the direct tax on land were to take place, would it not, he asked, fall much heavier upon the poor than a tax on sugar? He believed it would; since the poor who held lands would be called upon to pay their portion of it, whilst the rich who held no lands, would escape it. He, therefore, thought this a far preferable tax.

Mr. DEARBORN said, if further revenue was necessary, he could not conceive any article which would bear an advance of duty better than the one proposed. The present duty, he said, was one and a half cent a pound, and could it be supposed that to lay an additional half cent upon it, could make much difference to the consumer, or that it would ever be felt, or that, at the end of a year, it would be discovered whether one and a half or two cents duty had been paid upon a pound of sugar? He should have no objection, instead of half a cent, to lay an additional cent upon this article. In various parts of the country, brown sugar was retailed at from 12 to 20 cents a pound, the price being much increased from the present distressed situation of the West Indies. But they would find sugar of the same quality selling in one place for 12, in another for 14 or 16 cents; therefore, whether the duty was one or two cents, he did not think it would be felt by any body. It was true, that it was an article used by the middling and lower classes of the people; but the tax falling upon fine as well as brown sugar, all parts of the community would bear an equal share in the burden.

Mr. WILLIAMS moved to strike out the half cent, and insert a cent. It appeared to him that such an advance could not materially affect the consumer. The people, it was true, might use less; but, if they did so, as it was an article of luxury, every pound of sugar less which was consumed, would be of benefit to the country, by keeping the money which it cost in a foreign market at home. But he did not believe that this would be the case; or that the proposed additional duty would

increase the price of labor, as had been suggested. He believed the price of labor would be regulated by the price which the farmer was enabled to get for his produce. Whatever the farmer could afford to give his laborer (especially in this country where agriculture is the true interest) would fix the price of all other labor.

Mr. HOLLAND said, perhaps the constituents of the gentleman last up might manufacture their own sugar, and therefore would not be affected by this tax; but the greater part of his constituents were obliged to use and purchase their sugar; and if it were a luxury, it was one he did not wish to deprive them of, but that they might have it upon the same terms as usual. He looked upon it as a necessary of life, already at too high a price, and he should, therefore, oppose any advance of duty upon it.

Mr. GALLATIN said, he and his constituents were in the same situation with the gentleman from New York (Mr. WILLIAMS) and his constituents. They manufactured almost the whole of their own sugar; very little imported sugar was used; indeed, they sometimes exported sugar; but though this reason seemed to act pretty powerfully upon the gentleman from New York, it would not have the same effect upon him. Whenever a measure operated partially upon other parts of the Union, though it might operate in favor of his constituents, he should feel himself in duty bound to oppose it. On the ground of their being Representatives of the whole Union, as well as on the ground of policy, he did not believe it was right to endeavor to throw a burden upon one part of the Union, because the part in which they were most particularly interested, would escape it. He hoped the amendment would be rejected, and after the sense of the committee should have been taken upon it, he also would move an amendment. At present, brown sugar paid one and a half cent a pound duty, and molasses three cents per gallon. He should, therefore, move to have an additional cent laid upon molasses, in order that the two articles might be increased in the same proportion. He was against any increase at present; but if the duty on one article was increased, the other ought also to be increased.

Mr. WILLIAMS observed, that he had said the people in the part of the country from whence he came, made their own sugar during the war; if they were to make it now, it would cost them more than double the price at which they might purchase it. He said, when the gentleman from Pennsylvania (Mr. GALLATIN) found the land tax was not likely to pass, he wished to defeat every proposition for an indirect tax. He had attempted, therefore, to defeat an additional tax on sugar, by proposing to add molasses to the resolution. He did not think this fair; he wished every proposition to stand upon its own ground. A few days ago that gentleman had insisted upon the necessity of laying a direct tax; but now he came forward, and said no additional revenue was wanting. He wished not to have a compulsory tax, but a tax which persons might pay or not. If they did not like to pay the tax on sugar, they might do without it.

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Mr. COOPER said he was against any additional duty on salt or sugar, though he and his constituents (as well as his colleague and his constituents) should bear no part of the burden, as they made not only sufficient for themselves, but for sale. Indeed, he said, a duty on salt exported out of the United States, would produce revenue, as a considerable quantity was sent into Upper Canada.

Mr. WILLIAMS denied that his constituents made any salt; they had no salt but what paid duty; nor did his constituents make one-fourth of the sugar they used; nor did he believe his colleague's (Mr. COOPER'S) constituents made one-half of the sugar they used, as he well knew that a large quantity of sugar was sent to that district by way of Albany.

Mr. READ hoped the amendment would obtain. Although such persons as lived at a distance from market manufactured their own sugar, and consequently would be excused from this duty, yet they labored under many disadvantages in other respects, on account of their remoteness from market, and therefore he had no objection to their being excused from the operation of this tax. He did not believe this tax on sugar would fall upon poor persons. Farmers, indeed, used a little brown sugar, but they would rather pay a little more for this article than have their land taxed.

Mr. CLAIBORNE was against the amendment. If an additional duty of one cent was laid upon brown sugar, the different dealers would make it three or four, so that it would be materially felt.

Mr. GALLATIN then moved to amend the resolution, by adding an additional cent per gallon upon molasses. At present the duty on brown sugar was one and a half cent per pound, and on molasses three cents per gallon. The advance of 33 per cent. on the present duty would be the same that had been agreed to be laid upon sugar.

Mr. SWANWICK seconded the motion. The only way in which the tax on brown sugar could be secured was by advancing the duty on molasses in the same proportion, otherwise molasses would be used in the place of sugar, and the duty would be evaded. But he would have gentlemen consider in what situation they placed the revenue in respect to drawbacks. The person who paid the duty was probably not the same who drew the drawback on exportation; the United States run the risk, therefore, of paying the drawback, without receiving the duty. Though he thought the tax on sugar highly objectionable, yet if it were adopted, he thought it right that it should be accompanied by a proportionate tax on molasses as a security to the duty being paid. One cent a pound on sugar, it was said, was a trifle; but it was well known that the price of that article was at present very exorbitant, from the disorders which had taken place in the West Indies.

Mr. NICKOLAS hoped the amendment would be agreed to. His principal objection to a tax on sugar was, because, having been successful in making one addition, it would be an argument for making future ones, but if molasses was added to it, the tax would then fall more equally on the poor of different parts of the Union, and be a means of keeping down the tax.

Mr. BUCK said, if he thought the advocates of this amendment would vote for the resolution when amended, he might be induced to vote for it; but he believed they did not mean to do so. If an increase of the duty on brown sugar would fall upon the poorer class of the people, an additional duty on molasses would fall much heavier upon them. But he thought gentlemen were mistaken with respect to the operation of the tax on brown sugar; in the country it would not fall upon the poor, though in the cities it might do so; though in increasing the duty on brown sugar, that on fine was also increased. In the country it was the rich who used brown sugar; they had not got to that pitch of refinement which called for the use of fine sugar; they used brown sugar, and the poor used none; they sweetened with molasses. Notwithstanding this, if he thought gentlemen meant to vote for the resolution when amended, he would not object to the addition on molasses, as he did not think so small an advance would be materially felt.

Mr. RUTHERFORD hoped they should not agree to lay an additional duty on either of these necessaries of life. He hoped there was sufficient good sense in the House to oppose such a measure. They were used by all classes, from the infant to the stoutest man; particularly by many poor, infirm, aged persons, who looked upon them as nutritious and balmy nourishments. He hoped, therefore, they would not increase the price of those articles; for, if an additional cent was added, the dealers would add two, three, or four cents, which would be more than the poor could afford to pay for them.

Mr. CHRISTIE believed the gentleman from Pennsylvania meant, by the introduction of this amendment, to defeat the tax on sugar altogether; he should, therefore, vote against this amendment; but if the additional tax on sugar should be carried, and the additional tax on molasses should be introduced alone, he would vote for it, but he would not vote for them together. He did not think the tax on sugar would fall upon the poor, particularly as fine sugar would be taxed equally with the brown. He thought it was a fair object of taxation. He believed they should want revenue, and he did not know an article from which it could be better raised.

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Mr. FINDLAY was at a loss to know how a tax on molasses would operate; but his doubts had been removed by the gentleman from Vermont, (Mr. BUCK,) who had informed them it was used by the poor in place of brown sugar. In many parts of Pennsylvania molasses was scarcely known, and brown sugar was generally used by the poor; if, therefore, the same class of persons in one part of the country used molasses for the same purpose for which brown sugar was used in other parts, it was only reasonable that both should be taxed in the same proportion.

His colleague (Mr. GALLATIN) had mentioned that his constituents would not pay any of this tax, as they made their own sugar. It was so with a part of his constituents, but not with the whole. As it would be unjust to pass one tax without the other, he should be in favor of the amendment.

Mr. GALLATIN said, it had been charged against him, that he had introduced his amendment with a view to defeat the tax on sugar. He had already said that he did not wish for any indirect tax during the present session; but, at the same time, he considered it his duty, if a majority should choose to pass the resolution, to make it as good as possible before he voted against it, for this purpose he had introduced his amendment. Whenever the duty on sugar was increased, that on molasses should also be increased. With respect to what had been said about the duty on brown sugar not falling upon the poor, it was contradicted by the quantity every year imported into the United States. When they knew that this amounted to twenty-two millions of pounds weight, they must conclude that it was used by the poor as well as the rich; for though the Eastern States used a great deal of molasses, it was not the case in the Middle, Southern, and Western States; all classes of citizens in those States used sugar. The voting for the amendment now was the same as voting for it in any other shape. It was doing now what would be done hereafter, if now omitted. There was nothing informal in it. He saw no reason which could be urged for one taking place, which would not equally hold with respect to the other.

Mr. SWANWICK thought that those gentlemen who separated the articles of sugar and molasses, would wish to defeat the object; thus it was with the gentleman last up. This was introduced with a view of securing the collection. Mr. S. said he had before stated the injury the United States might sustain in case of a failure of pay from the imported, and need not repeat that he objected *in toto* to the tax.

Mr. BUCK asked if, when on the question on the resolution, (if, adopted,) a separate vote could be given? He was answered no. Then he would observe to the gentleman that, if it could not be separated, he hoped it would not be introduced, it having been said the duty on sugar would operate on the poor; now, he said, here was an article introduced with it that would operate worse than the other; therefore, he should oppose both, if put together, when, if separated, he should have voted for the tax on molasses alone, as sugar was a great means of sustenance and use.

The Chairman again remarked (in reference to what had fallen from Mr. W. SMITH) that the amendment was in order, though he did not think it the most fair way of introducing the subject.

Mr. GALLATIN conceived that he was the best judge of the fairness of his proceedings; and as the Chairman had declared the amendment to be in order, he expected a question would be taken upon it.

Mr. NICHOLAS begged leave to differ in opinion from the Chair in this instance, though he must own much deference was due to it: he thought the proceedings perfectly fair. Mr. N. would vote for this, in order to have the two connected; that gentleman could now vote against the addition of molasses, then he would have an opportunity to vote on sugar alone. He should wish it extended to both alike. The gentleman (Mr. BUCK) was mistaken in his application on this subject;

it was not taxing the sustenance of the poor in one article more than another, for the sugar would most affect one part, yet molasses would as much affect another; he, therefore, hoped, if gentlemen wished fair and equal taxation, that this association would take place; this equalization would go to prevent any opposition to the tax, which would otherwise be hazarded.

Mr. BUCK was satisfied with this explanation; therefore, supposing gentlemen who supported the amendment would vote for both, according to this modification, he should go with them; if not, he should oppose the amendment.

Mr. DAYTON (the Speaker) said, he did not rise to speak to the point of order; he considered that as already settled by the Chairman. Every member, he said, against laying an additional tax upon molasses, would, of course, vote against the amendment; and all those who had no objection to the tax, but who did not wish it to be thus introduced, of whom he found there was not a few, might join them, as, after the additional tax on sugar was agreed to, that on molasses might be again introduced.

Mr. S. SMITH said, he had some doubt before the last gentleman was up, of the propriety of tacking these two articles together, but now he had none. One part of the Union, he supposed, would be for voting out molasses: but his constituents would not like the tax on sugar, except it was accompanied with that on molasses; as a subject of sweetening he thought they should both go together. Mr. S. said, he had another article of sweetening, which he wished also to add to the resolution: great quantities of sugar-candy were manufactured in Holland and sent all over Germany; it was used with tea and coffee, in the place of sugar. This article, he said, was finding its way among the Germans in this country. At present it only paid a duty of 10 per cent. *ad valorem*, which was a very inadequate duty, when compared with that paid on sugar. Mr. S. said, he was against going into the subject of indirect taxes, but he thought with the gentleman from Pennsylvania (Mr. GALLATIN) that it was his duty to make the resolution as good as he could. Nothing had been said to prove that we had not revenue enough for the present; but he would, however, move to add nine cents a pound upon sugar-candy imported.

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Mr. S. said, he agreed with the Secretary of the Treasury, that sugar was amongst the most proper articles upon which to lay an additional impost; but he wished for some permanent source of revenue, and not adopt the trifling modes proposed. Gentlemen talked of deceiving the people; he said they could not be deceived; they would know there were two parties in that House, the one for direct, the other for indirect taxes. Those gentlemen who were opposed to direct taxes brought forward these articles in place of it. The people need not be told this; they saw it evidently enough.

Mr. HOLLAND said, though he was opposed to direct taxes, he was also on sugar and molasses; he saw all the disadvantages of some other gentlemen on taxing West India produce at this critical juncture; but if it must pass, he should think it his duty to endeavor to make it pass as unexceptionably as possible; however, he should oppose both, and though it affected his constituents differently from those of Vermont, yet he should not include them as necessarily connected. Mr. H. thought if these were opposed, there might be many articles more proper to lay a tax on; but he thought there was no necessity for any this session.

The question for adding one cent per gallon on molasses was then put and carried.

Mr. S. SMITH then moved that nine cents per pound be laid on sugar-candy imported, observing that it was much used by the Dutch, and there being much sweetening in it, it should bear a proportionate duty.

Mr. W. SMITH wished the gentleman to be candid on the motive of his proposition.

Mr. S. SMITH answered, that his conduct with respect to the subject had always been fair and unequivocal; he wished the whole proposition to be defeated, which he had before declared, but, to make it equal and consistent, he proposed the addition.

It was then put and carried.

The question was put on the whole resolution, as amended, and carried—yeas 52.

## FRIDAY, February 17

### *Increase of Duties.*

#### SALT.

Mr. HARPER then proposed that an additional duty of five cents per bushel should be laid upon all salt imported in the United States. [Mr. H. read the letter of the Secretary, wherein he mentions salt as being at a much lower rate of duty than in other countries, and that no tax laid upon it could be evaded, from its necessity and bulk.] Mr. H. added, as, in his opinion, satisfactory answers had been given to the objections which had been urged against this tax, it was not necessary to say more on the subject.

Mr. GALLATIN said the arguments of the Secretary of the Treasury were excellent fiscal arguments, and went to say, "provided we can get money, no matter how." He says salt cannot be smuggled; that we know: whether the duty was increased, or remain as it was, the people must consume the same. This was true, and the same arguments might be used for taxing the light or the water. Of all the necessaries of life, a duty was most easily collected upon salt; and this was the reason which had induced other countries to tax it so heavily; and yet this was used as an argument for

increasing the duty here; but he was not one of those who felt any consolation, upon such an increase of duty, that there were other countries where the duty was yet higher.

Mr. G. said, as to any satisfactory answers which had been given to the objections to this tax, he had not heard them; he believed they had not been answered at all; except, indeed, sullen silence might be deemed satisfactory answers; if it were, they had indeed been answered satisfactorily.

Mr. G. here repeated the objections to the tax which he had made on a former occasion, viz: that it would operate as a poll-tax; that it would fall partially on some districts of country, and upon some classes of citizens more than others. He said salt in that part of the country from which he came was already upwards of four dollars a bushel, and that it would be therefore oppressive to increase the evil, by adding fresh duties upon it.

Mr. NICHOLAS said a tax on salt was equally objectionable, whether it was considered as a poll-tax, or as a tax upon agriculture. As a poll-tax, every one would see the injustice of charging all men alike with a tax, without respect to their ability to pay it; as a tax upon agriculture, he was able to say something from experience. He was willing to give all the authority to the opinion of the Secretary of the Treasury which he could wish, but he could not yield his opinion to him. He knew that agriculture was at present very much depressed by the high price of salt; he had himself refrained from the use of it, by its dearness, though he believed his cattle had been the worse for it. The poorer class of citizens in the part of the country from which he came were generally owners of cattle, and employed themselves in taking care of them. These men found it at present as much as they could do to make a comfortable living, and any additional tax on salt would be very ill received by them. He was satisfied that it was a tax which would operate with great inequality; it was a tax upon one kind of employment—upon an employment which was generally pursued by the poorer classes, and consequently least able to pay it. It might be said, five cents a bushel was a trifle; but he said he objected to it from the principle of taking money where it could be got, as, if five cents were now to be added, the same argument would hold for adding another and another five on a future day.

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Mr. HOLLAND was opposed to the amendment; he said no article which could be mentioned would bear a greater augmentation than salt; indeed the whole revenue of the United States might be raised from it, because it must be used by every person; but that was no reason why the whole burden should be laid on it. In North Carolina, Mr. H. said, it was four dollars per bushel, which was sufficiently high without adding to the price, and was always a cash article, and difficult to be had for that. It being an article of absolute necessity, the rich would not pay more, if so much, as the poor.

Mr. RUTHERFORD said, he was against this tax for two reasons; the first was on account of its inequality, and the next on account of its odiousness. A tax on salt, he said, was almost like taxing the common air. Farmers were obliged to use large quantities of it for their stock; it rendered them docile and easy to be managed. Indeed it could not be done without; a person was nothing without salt. The price at present was enormous on the frontier, and this duty would add prodigiously to it; for this reason he should give it his flat opposition.

Mr. FINDLAY said, because salt was necessary, and because it could not be smuggled, would not surely be sufficient arguments for increasing the duty upon it. The law of reason, he said, was the law of justice. Mr. F. gave an account of the progress of this tax. His colleague (Mr. GALLATIN) must have been mistaken as to the price which this article bore in the Western country. He had himself lately paid six guineas for six bushels of salt. Indeed this was considered as the greatest inconvenience in that part of the country, and they could not at present be relieved from it. Providence, who generally bestowed the necessaries of life in a very general manner, had not provided them with salt. And shall we, for this reason, monopolize a revenue upon it? For the same reason would hold good for paying the whole upon it as a part. He trusted they would not be so unjust to the people of that country.

Mr. HARPER said, after all the time which had been taken up in discussing this subject, he would not occupy the attention of the committee longer than while he made one or two remarks.

The gentleman from Pennsylvania (Mr. GALLATIN) had said that no answer had been given to his objections against an additional tax on salt. He should not enter into a dispute with that gentleman upon what might be deemed an answer; but he believed many members of that House would remember that an answer was given, and probably they might also think it a satisfactory one; at least it was so to one person. The objections brought against this tax would be well-founded, if the whole revenue was proposed to be raised from it; or if it were intended as a substitute for a land tax, or any other great object; if two or three millions were wanted from it, then it might be objected to upon good ground; but when one hundred thousand dollars only were proposed to be drawn from this source, he did not think the objections would hold. Admitting, said Mr. H., that there was some inequality in the operation of this tax, those persons upon whom it fell heaviest were exonerated from many other taxes which other parts of the country had to pay. They had, for instance, just agreed to increase the duty upon a certain species of cotton goods, of which they would not purchase a single yard. The present revenue was six millions four hundred thousand dollars, of which salt pays near three hundred thousand dollars. The people on the frontier, who pay for salt, are in a great measure exempt from other articles taxed; they purchased neither foreign wines nor spirits, high priced dresses nor furniture; all they wanted was corduroys, &c., which was very unfrequent. If five cents per bushel was laid on salt, those persons would have about a dollar a year more to pay, and nine-tenths not half a dollar. What could be more easy? Indeed, except the people were told of the duty they would not know it, as its effects would be so trifling.



With respect to the price of salt at Fort Pitt, as a gentleman had observed, it might be high, but was this occasioned by a duty? No, but by the situation of the country. Ought they not, then, he asked, to devise some species of tax by which to draw some part of the revenue from the inhabitants of the back country? He thought so far from this being wrong, that justice required it. This subject did not address the understanding, but the sensibility of the House, or perhaps the sensibility of those out of the House.

The objections against the tax which had been urged, he thought, ought not to have any weight, since it would operate with the greatest equality upon the whole, and there would be safety, propriety, and justice, in making the augmentation in question. Suppose two cents were put, instead of five; this would raise a good sum, and be very easy.

Mr. S. SMITH moved that the committee rise; which was negatived—there being only twenty-five in favor of it.

Mr. W. SMITH said the question had best be taken on blank cents, then five, four, or any number of cents could afterwards be added.

The question was then put, and lost—yeas 41, nays 48.

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## **SATURDAY, February 18.**

### ***Naval Appropriation.***

The House then resolved itself into a Committee of the Whole on the bill granting an appropriation for finishing the three frigates, and also upon the bill repealing that part of the act which provided for the officering and manning the frigates, both having been committed to the same Committee of the Whole. That for repealing a part of the former law came first under consideration.

Mr. W. SMITH said he could not abandon the idea of our some time becoming a naval power; he very much disliked the repealing this act; in order, however, to make the bill more palatable, and to remove some of the embarrassments which the Senate would otherwise have to encounter, he would move to substitute, instead of the word "repeal," the words "suspend for — years."

Mr. COIT thought the very beginning of the frigates a wild notion, and hoped the most distant idea of manning them would not enter gentlemen's minds; he should therefore oppose the motion.

Mr. VENABLE said, it seemed the gentleman who moved the amendment did not think it necessary the ships should now be manned. The operation of the amendment appeared to put it in the power of one branch of the Legislature, at a future day, to man the ships, and send them to sea. He was surprised at the changeableness of the gentleman who moved and favored the equipment. When a naval armament was first proposed, it was objected to, as looking like forming a Naval Establishment. They then told us it was expressly to repel the encroachments of the Algerines; and that, as soon as peace was obtained with that power, the building of them was to stop. Now they come forward, and avow a desire to have a Navy Establishment. Thus originate evils which if not stopped early, would spread and become dangerous. The only fair argument they have on the subject is, that a Navy is now become necessary. Certain it is, that, if they intend to have a Naval Establishment, to protect our commerce and repel our injuries, three frigates will be very incompetent to the object. He should not object to finishing them, and only because so much had been expended on them already, but should ever oppose fitting them for sea.

Mr. SWANWICK asked the gentleman what security there was in a peace with Algiers? Could he say we were at peace with them now? Certainly we are in a worse situation with that power now than then; we are parting with our cash, (which makes it such a scarce article,) and yet we have no benefit. Now it is said it is altogether a vision—a fancy or a dream. Then gentlemen get up and ask what we are to do with three frigates? He would answer, that so far as they went, they gave stability and protection to our commerce. True, they were not thirty frigates, but he believed, few as they were, they would save more than five times what they cost in only one year. The richest ships we have are now taken and robbed by every picaroon and pirate infesting the seas, because we have no security; and he was surprised it was not worse. He had no doubt but it would be an emolument; it would be a protection to the great revenue we enjoy. That very trade, he said, which was subject to spoliation from such petty robbers, paid into the revenue five or six millions of duty annually. If this was still permitted to be encroached on, it was an error, and it would soon be seen; and this was by a people called "free and enlightened." He had no doubt they would soon be enlightened enough to see they had done wrong. If gentlemen are against finishing these frigates, why do they not come forward and declare it? Let us sell them, said he, at public auction. What will be the effect if we have it told at our wharves that we object to man them, because we have peace with Algiers? He hoped they would be manned, or else have tacked to the bill, that, when finished, they were to be sold for East Indiamen or something. If that were gentlemen's wish, this was the time to come forward and say so, and let it be put in the bill. He would ask, Was there any thing in the name of Government, if it operated in this manner? It was extraordinary conduct, indeed.

Gentlemen say they will not vote to finish these frigates, except the repeal for manning is included. When it goes up to the Senate, may they not say they will not vote to finish, except it be to man them? But, Mr. S. said, he supposed gentlemen depended upon negotiation, if any thing was wrong. What were the consequences of our late negotiation? We have two things before us—

treaty or ships. As for treaty, we have seen our money sent across the Atlantic, and scattered a thousand ways: this was throwing it into the ocean. He had heard of a Doge of Venice throwing a ring into the sea to marry it: it seemed this money was gone for the same purpose, and its use would be no better than the Doge's ring. He thought the most complete treaty was, power to resist aggression. This business of negotiation is very unprofitable. You may obtain fair promises from foreign ministers, but very poor redress, if any.

The question on the amendment was put and lost—ayes 30, noes 51.

Mr. HARRISON moved for the committee to rise and report the bill without amendments.

Mr. NICHOLAS said, it seemed that gentlemen were making a new business of this. At the time it was brought forward, gentlemen voted in favor of it, because the law was to be repealed. He voted to separate the bills, because he conceived it would not be right to say to the Senate, You shall do two things together, or neither. He hoped the committee would rise, that the House may not have such power over the business as to keep it back. If the other bill pass the Senate, said he, we can take up this, and pass it in a short time.

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Mr. PARKER thought this a most extraordinary procedure, to say we will not pass the appropriation bill till we know the Senate have agreed to that for repealing. He thought the Senate had as great a right to exercise their discretion as that House. He never expected to have heard such expressions. This was holding out a *dictum* for their conduct: this he thought neither fair nor proper.

Mr. VENABLE thought the bills were connected. He wished to vote merely for finishing the frigates. He hoped the committee would not rise, but that it might be so amended as to add the other bill to it. When he voted for the appropriation, he said, he voted for it only in such a manner as should be reconcilable with his judgment. If the gentleman would waive his motion, and the House would so connect it, he should be gratified.

Mr. HARRISON said, as the last gentleman's ideas were fully to his purpose, he should withdraw his motion.

On motion being made for connecting the bills—

Mr. BUCK hoped it would not prevail. The only reason he saw to object, (and he thought that very forcible,) was, that it discovered a jealousy in that House of another branch of the Government, which he thought very unjustifiable. He had voted for the repeal, but should not vote for the appropriation. He thought they ought to act for themselves, without reference to the other branch. Any member may vote which way he pleased, but to say he would not vote for one without they go to the other, was unfair. He could see no justice in such a mistrust from this branch of the Legislature. Suppose, he said, the bills go to the Senate separately, they may concur in the appropriation, and reject the appeal. Even in that situation, were it to be left, the Executive could not man the frigates, unless they could obtain further appropriations—to obstruct which would be preferable, and would put it out of the power of the Senate to embarrass the House.

Mr. VENABLE said his vote was given without any relation whatever to the Senate. He thought any act passed by this House could not, when sent up to the Senate, be termed disrespectful, for each branch had a right to act for themselves. He was surprised to hear the gentleman last up say he should not vote this appropriation; for he had heard him say, on a former occasion, that he would vote an appropriation for any treaty, law, or whatever should exist to call for it. Mr. V. confessed himself to be of a very different opinion; for he always thought the House had a discretionary power to grant it or not, but that gentleman had long said it had none.

Mr. BUCK said, as his doctrines had been called in question, he must beg indulgence to explain. He never said that the House had not a right to judge on the propriety of appropriation in an existing law. He conceived a treaty quite another thing. The PRESIDENT and Senate have a constitutional power to make a treaty; in that, he said, he did advocate that that House had no right to withhold appropriations; but in laws, where the power of making appropriations rests partly in that House, they had a right to grant or withhold. This, he said, he had always held.

Mr. NICHOLAS said, this appeared to him a very unreasonable clamor in behalf of the Senate. The gentleman last up seemed very careful not to awaken the jealousy of the Senate. How could he know what part would awaken that idea of disrespect? He had formed his mind to vote on the subject, and surely every member might do so, without a fear of showing disrespect to another branch. The gentleman had said that this House may refuse to appropriate for a law. Now, suppose the Senate refuse to repeal without we appropriate, we are then forced to choose one of two evils. Very often, Mr. N. said, the House were obliged to appropriate for a law, it may be, so far executed that they could not refuse. Suppose the PRESIDENT should, after this, appoint officers to enlist men for the frigates, how could the House refuse to pay them? While a law existed to man these ships, it would be difficult to prevent it: it would enable those who were friendly to the measure to carry it into effect. He hoped, therefore, the House would not run the risk by leaving it open to such possible intrusion.

Mr. S. SMITH thought this was a very unfair way of doing business, but he had been used to such things. He thought this form of *tacking* was very improper and unfair. It had been observed that we were the most free and enlightened people, but he thought those who advocated these measures proved the very contrary.

Mr. SWANWICK said, it appeared to him a kind of Legislative stratagem. The whole intention of the business could be easily discovered. If there was nothing improper, why should they fear to trust

the Senate with it? Having the yeas and nays on both bills, gentlemen could not easily excuse them for voting for the repeal, as it would go out into the country that many had voted contrary to their arguments. Thus we are forced to vote against our own opinion, or not have the frigates finished. He could plainly see that gentlemen meant to defeat the object, and, he thought, in a very unfair way.

Mr. W. LYMAN spoke much of the impolicy and impropriety of the measures of those gentlemen who supported naval preparations. Some time back, he said, those very gentlemen were advising us to cultivate our land, and not regard commerce—it was a broken reed to depend on; but now, they want to put the nation to an enormous expense to protect that commerce they thought so lightly of! The frigates would cost more than double the money which was at first estimated: this would be a disgrace to any nation. The whole process of the business had been bad, and he had no doubt but the estimate now before the House would be found deficient. Though he thought a small Navy would be useful, yet, until he saw its process conducted more fairly, and with more discretion, he should not vote a shilling to it: for the waste of money which had been discovered in this, had given him a distaste to it.

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A remark having fallen from Mr. L., on the constitutionality of this appropriation—

Mr. W. SMITH said, that, what the gentleman observed, only respected an Army. The constitution says, an appropriation for the Army shall not be made for more than two years, but it said not a word about restricting a Navy; and it is certain that the framers of the constitution had a view to a Navy, as in three different parts it makes mention of it. [Here Mr. S. read those parts from the constitution.] The question was not whether to repeal the law or not, but whether the appropriation bill was to be *tacked* to the repeal. When before taken up, a majority voted for two bills, and they are accordingly reported, and now the two are to be united. This, said he, is directing the Senate to vote a certain way, because this House saw it right. This was a kind of coercion which would oblige them (if they support their independence, which they certainly will) to reject the repeal. This, he said, was a spirit which every gentleman in the House felt. He therefore hoped there would be two bills.

Mr. GALLATIN did not conceive this a question on the constitution; it was not on the power of the House as to the subject of appropriation, but merely on connecting the two bills. He conceived it perfectly right and proper to connect them, because the subject of them was the same. It was not novel: appropriation and repeal had before been connected. Indeed, he thought it improper to hold the Senate in any consideration at all. He should not be guided by any apprehensions of what they would do. The gentleman last up had said, it was unfair to connect them, as it would oblige members who opposed one to vote for both. Now, a majority will always decide, and those in the minority will always be affected. That gentleman would rather take a question on each; but Mr. G. said he would rather on both together. But both will not be material, more than in a certain degree. He further observed that a decision had been come to to keep the subjects apart. This, Mr. G. said, was only in order to give leave to the committee to report one or two bills. But that could not now affect the decision. The House might now do as they pleased. He looked upon the first act of the law as rather explanatory of the other. A law passed last year for the equipment of the frigates. The first law expired as to the manning them. It is therefore only for fear the word "equipment" should be so construed as to mean "manning," that we wish a connection of these bills.

He thought it more candid and fair to have both the objects before the Senate at one time than to separate them. If they think it an attack upon their privileges they would act consistently therewith.

Mr. WILLIAMS could not see where the difference was, whether the bills were apart or not. He was sorry any jealousy should be discovered towards another branch; if the amendment were to go to the Senate they had power to reject any part. The next Congress would take a view of the subject, and do what they thought right, as the frigates would not be fit to be manned till then.

Mr. BUCK again repeated his objections to uniting the bills.

Mr. N. SMITH thought there could be no good reasons for uniting the bills. There had not yet been any appropriation made, and the money was nearly expended; he thought the appropriation should be passed immediately, as he had no doubt but both Houses would ultimately unite in this object. If, therefore, any money was to be appropriated, let it be done, and then if the House thought proper to agree to the repeal, it could be done, as no delay ought to be made.

The gentleman from Pennsylvania (Mr. GALLATIN) said the other day, that he would not, under any situation, vote the supply until he knew whether there was any intention to fit them for sea or not. This, Mr. S. thought the principal point; but except that gentleman, with others, thought the ships were to remain in the same situation as at present, it certainly was necessary to agree to the appropriations; this was voted on all hands, though some could not agree to go all lengths. He did not believe many could be found in the House who would wish them to remain and rot on the stocks; but for gentlemen to say they would not agree to grant the supply except the other part was repealed, he thought wrong. It was true, they had the power to withhold even appropriations for the PRESIDENT'S salary, Senate, &c., but if such opposition was supported, Government could not long exist. That House had power over the Senate, and, *vice versa*, the Senate over that House—each had a right to think and do as they pleased, but it would be wrong in one to curtail the privilege of the other by an ill-timed opposition; this was merely to show a spleen which could not but be to the detriment and delay of business.

Mr. W. SMITH rose to answer some observations made by Mr. GALLATIN and Mr. VENABLE, and

proceeded to show the impropriety of tacking the bills; he said it would produce insurmountable difficulties. He never could agree to this *tortus discordans* being sent up to the Senate.

Mr. VENABLE answered. The question was then put for tacking the two bills, and carried, ayes 41, noes 36.

The committee then rose, and the House took up the amendments reported by the Committee of the Whole. Whereupon, the first amendment reported by the Committee of the Whole House, for adding a new section, to be the second section of the said bill, being read, in the words following, to wit:

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"*And be it further enacted*, That the sum of — dollars be, and the same is hereby appropriated for the purpose of finishing the frigates now building, called the United States, Constitution, and Constellation; and that the same be paid out of the surplus of revenue and income, which may accrue to the end of the year one thousand seven hundred and ninety-seven, after satisfying the objects for which appropriations have been heretofore made."

Mr. W. SMITH said, as the question would first be taken on the amendment and then upon the resolution as amended, a member who wished to vote for the finishing of the frigates, but not for the repeal, would not have an opportunity of showing his sentiments by the yeas and nays. In order that members who thought with him might have an opportunity of showing their vote, he called for the previous question upon the proposition.

The SPEAKER declaring that this motion was not in order, Mr. W. SMITH called for the yeas and nays upon the amendment.

Mr. SITGREAVES said, rather than not obtain an appropriation for finishing the frigates, he should vote in favor of the amendment, though he was of the same opinion with the gentleman from South Carolina (Mr. W. SMITH) as to the unfairness of the proceeding.

Mr. DENT was of the same opinion.

Mr. MUHLENBERG said as the amendment stood annexed to the other bill, he should vote against it; though, if the subject had continued in a separate bill, he should have voted in favor of it.

The question was then taken on the amendment, and decided in the affirmative, 59 to 25, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Nathan Bryan, Dempsey Burges, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, William Cooper, Henry Dearborn, George Dent, William Findlay, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Ezekiel Gilbert, James Gillespie, Henry Glenn, Christopher Greenup, Andrew Gregg, Carter B. Harrison, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, John Wilkes Kittera, George Leonard, Edward Livingston, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, John Patton, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Israel Smith, Isaac Smith, Richard Sprigg, jr., Thomas Sprigg, Zephaniah Swift, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

NAYS.—Theophilus Bradbury, Daniel Buck, Samuel W. Dana, James Davenport, George Ege, Abiel Foster, Dwight Foster, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, John Heath, William Hindman, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Josiah Parker, John Read, Samuel Sewall, Nathaniel Smith, Samuel Smith, William Smith, John Swanwick, George Thatcher, and Peleg Wadsworth.

The bill was then recommitted to a Committee of the Whole, in order to have the blank for the sum to be appropriated for finishing the vessels inserted, and was filled with \$172,000.

## TUESDAY, February 21.

### *Negotiation with the Mediterranean Powers.*

Mr. W. SMITH moved that the House should go into a committee on the business, which would require the galleries to be closed; the SPEAKER accordingly put the question for going into a Committee of the Whole on the bill to authorize a negotiation with the Mediterranean Powers, which, being carried, the galleries were cleared accordingly.

After the galleries were cleared, the bill was agreed to with amendments, and ordered for a third reading to-morrow.

On motion that the House come to the following resolution:

"*Resolved*, That the injunction of secrecy upon the members of this House, so far as it relates to that part of the communication made by the President, by his Message of January 9, which has been printed, be taken off, and that all future debates and proceedings thereon be had with open doors."

A motion was made to insert, after the words "be taken off," "together with the letter of Messrs.

Barlow and Donaldson, of April 5, 1796." The question on the amendment was taken by yeas and nays, and lost—yeas 19, nays 65.

The main question was then taken by yeas and nays, and resulted—yeas 53, nays 36.

Reports of the Secretary of State, relative to the present situation of affairs with the Dey and Regency of Algiers, accompanying the following confidential Message from the President of the United States, received the 9th of January, 1797:

*Gentlemen of the Senate, and of the House of Representatives:*

Herewith I lay before you, in confidence, reports from the Departments of State and the Treasury, by which you will see the present situation of our affairs with the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, January 9, 1797.

*To the President of the United States, the Secretary of State respectfully makes the following brief representation of the affairs of the United States, in relation to Algiers:*

When Colonel Humphreys left America, in April, 1795, he was accompanied by Joseph Donaldson, Esq., who had been appointed Consul for Tunis and Tripoli; and him Colonel Humphreys was authorized to employ in negotiating a Treaty with Algiers, while he should proceed himself to France, for the purpose of obtaining the co-operation of that Government in this negotiation.

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They arrived at Gibraltar on the 17th of May. Colonel Humphreys concluded that it was expedient for Mr. Donaldson to go first to Alicant, rather than Algiers, in order to be near at hand, to ascertain facts and profit of occasions. He gave him instructions accordingly; and having also instructed Mr. Simpson, our Consul at Gibraltar, to renew our peace with the Emperor of Morocco, Colonel Humphreys sailed from Gibraltar the 24th of May, and arrived at Havre de Grace on the 26th of June; from whence he set off immediately for Paris. The object of his mission was communicated by our Minister, Colonel Monroe, to the Committee of Public Safety. On the 1st of July he had received only a verbal answer, that the French Government was disposed to interest itself, and to do every thing in its power, to promote the accomplishment of our wishes on the subject in question. On the 28th, assurances were received that immediate measures should be taken for giving particular instructions to the agents of the Republic, to use its influence in co-operating with us. The multiplicity of affairs with which the officers of Government were occupied, and the getting from London a sum of money necessary to purchase the usual peace presents, prevented a conclusion of this arrangement at Paris until September. It had been judged expedient, by Colonel Humphreys and Colonel Monroe, that Joel Barlow should be employed in the negotiation with the Barbary States, and his consent had been obtained. By the 11th of September, all the writings on the part of Colonel Humphreys were prepared for Mr. Barlow, to proceed with the instructions and powers from the Government of the French Republic to its agents in Barbary, in favor of our negotiation.

Colonel Humphreys left Paris the 12th of September, and reached Havre the 14th, where he found the master and mate of the United States brig Sophia, both sick with fevers. While waiting there impatiently for their recovery, he received intelligence from our Consul at Marseilles, that Mr. Donaldson had concluded a Treaty of Peace with the Dey of Algiers; nevertheless, Colonel Humphreys thought it expedient that Mr. Barlow should proceed with the presents prepared and preparing at Paris; for, if not needed at Algiers, they would be wanted in the negotiation with Tunis and Tripoli.

About the 5th of October, Colonel Humphreys sailed from Havre, and after a stormy passage of more than forty days, arrived at Lisbon on the 17th of November. There he found Captain O'Brien, who had arrived about the 1st of October, with the Treaty with Algiers.

On the 3d of September Mr. Donaldson arrived at Algiers, and on the 5th the Treaty was concluded, and the peace presents immediately given, by a loan. Mr. Donaldson, knowing that funds had been lodged in London to answer his stipulations, engaged to make the payments in three or four months.

Colonel Humphreys had received advice, under date of the 30th July, from the Messrs. Barings, in London, to whom the funds had been remitted, that, having made progress in the sales of the United States' stock, they should hold, at his disposal, the whole of the value of \$800,000, meaning to furnish, by anticipation, the value of that part which remained unsold, if the service of the United States required it. Colonel Humphreys, counting on the money as always ready after this period, sent Captain O'Brien from Lisbon to London, in the brig Sophia, to receive it. Owing to contrary winds, she did not leave Lisbon till the 24th of December. The other details, relative to the pecuniary transactions, appear in the report of the Secretary of the Treasury.

The disappointments in the pecuniary negotiations, put the Treaty in jeopardy; the

Dey threatened to abandon it, and it was with extreme difficulty that it was prevented. Mr. Barlow did not arrive at Alicant until February, 1796, where he proposed to wait the arrival of the funds: but, after a little time, his intelligence from Algiers showing that our affairs were in a critical situation, he determined to go thither immediately, with the hope of soothing the Dey. He arrived there the 4th of March; they had before prolonged the time to the 8th of April for the payment of the stipulated sums. On the 3d of this month the Dey declared what should be his final determination—that in eight days Mr. Barlow and Mr. Donaldson should leave Algiers; and if, in thirty days after, the money was not paid, the Treaty should be at an end, and his cruisers should bring in American vessels. Under these circumstances, and as the last hope of saving the Treaty, they were induced to offer the present of a frigate—this fortunately succeeded. For the particulars of this transaction, the Secretary begs leave to refer to the enclosed letter from Messrs. Barlow and Donaldson.

Colonel Humphreys not deeming himself authorized to confirm this promise of a frigate, referred the matter to the Executive of the United States; and for this end despatched Captain O'Brien, in the brig Sophia, to America. There was evidently no alternative; and the promise was confirmed.

The frigate is now building in Portsmouth, New Hampshire, and is expected to be finished in the spring. Captain O'Brien returned to Lisbon, where he arrived on the — of July. Colonel Humphreys had advantageously negotiated bills on London for \$225,000. This sum was embarked on board the Sophia, and, on the 3d of August, Captain O'Brien set sail for Algiers. He has not since been heard of, and there is room to fear that some misfortune has befallen him. The money was insured at a small premium, against the danger of the seas; against all risks they demanded so high a premium as Colonel Humphreys judged it inexpedient to give, seeing the Sophia was a vessel of the United States, having a special passport from the President, as well as a passport in the Turkish language, under the seal of the Dey of Algiers.

Such arrangements have been made by Mr. Barlow and Mr. Donaldson, at Algiers and Leghorn, as will doubtless insure the payment of the \$400,000 originally expected from the latter place; and the same house have become engaged to the Dey and Regency for the residue of the money due as the price of peace, without which he would not agree to the redemption of the captives.

The Secretary of the Treasury estimates these further sums to be provided to fulfil the terms of the Treaty	\$255,759
For two years' annuities to the Dey	99,246
To which are to be added the 10,000 sequins promised by Mr. Barlow and Mr. Donaldson, mentioned in their letter	18,000
And the expenses of the captives performing quarantine at Marseilles, and transporting them to America, estimated by the Consul at Marseilles, at about	6,500
	———
	379,505

On the 31st ultimo I received a letter from Mr. Barlow, dated the 13th of July, informing that the agent, Mr. Famin, at Tunis, who had been recommended to him by the French Consul Herculias, had concluded, with the Bey of that Regency, a truce for six months, from the 15th day of June last, and that without any presents.

TIMOTHY PICKERING,  
*Secretary of State.*

DEPARTMENT OF STATE, January 6, 1797.

### WEDNESDAY, February 22.

#### *Mediterranean Powers.*

The bill for making appropriations to defray the expense of negotiations with Mediterranean powers, was also read the third time. The provisions of this act, (which has been the subject of the various discussions which have lately taken place with closed galleries) are to the following effect:

"That the President of the United States be, and he is hereby authorized to apply a sum not exceeding 255,759 dollars and three cents, to the expenses which may have been incurred in any negotiations with Mediterranean powers, beyond the sums heretofore appropriated; and that the said sum of 255,759 dollars and three cents, be, and the same is hereby appropriated for that purpose; and that a further sum not exceeding 96,246 dollars and 63 cents, be, and the same is hereby

appropriated for discharging the two first years' annuity to the Dey and Regency of Algiers, pursuant to treaty, in addition to the gum appropriated for that purpose by the act of the sixth of May, 1796."

On the question being put that the bill do pass, Mr. GREENUP said he never liked the bill in any shape whatever; he would therefore express it now. He then called for the yeas and nays, which were taken, and stood yeas 63, noes 19, as follow:

YEAS.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Nathan Bryan, Daniel Buck, Dempsey Burges, Thomas Claiborne, Joshua Coit, Isaac Coles, William Cooper, James Davenport, Henry Dearborn, George Dent, George Ege, William Findlay, Dwight Foster, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, Ezekiel Gilbert, Henry Glenn, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, Thomas Henderson, William Hindman, Aaron Kitchell, John Wilkes Kittera, George Leonard, Matthew Locke, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Elisha R. Potter, John Richards, Robert Rutherford, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Richard Sprigg, jr., Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

NAYS.—David Bard, Thomas Blount, Samuel J. Cabell, Gabriel Christie, John Clopton, James Gillespie, Christopher Greenup, John Hathorn, John Heath, James Holland, Andrew Jackson, George Jackson, William Lyman, Samuel Maclay, Nathaniel Macon, William Strudwick, John Swanwick, Abraham Venable, and Richard Winn.

On motion of Mr. GALLATIN, the title was changed to "a bill to authorize the PRESIDENT OF THE UNITED STATES to apply further sums to defray the expenses of the negotiation with the Dey and Regency of Algiers."<sup>[11]</sup>

### ***John Cleves Symmes.***

On motion of Mr. GALLATIN, the House took up the bill in addition to an act for granting certain lands to John Cleves Symmes and his associates; when

Mr. COIT moved to strike out the first section. His object, he said, was to gain information, particularly with respect to the survey.

Mr. GALLATIN (who was Chairman of the Committee which made the report) gave a concise history of the business; which satisfied Mr. COIT, who withdrew his motion; and the bill was ordered to be read a third time to-morrow.

The particulars of this case are as follows:

John Cleves Symmes and his associates entered into a contract with the United States in the year 1787, for a million acres of land in the North-western Territory, at a time when the geography of that country was not well understood. The tract was to extend twenty miles up the Great Miami to the Little Miami; but when this line came to be measured, it was found that it cut the Little Miami in several places on land which had been reserved by Virginia at the cession of this Territory to the United States. Mr. Symmes was down in the country before he knew the line thus drawn would thus cut into the lands of Virginia. The first thing he did was to take possession of the country which is between Fort Washington and the Little Miami, and to sell as much as he could of it. General St. Clair, the Governor of that Territory, threatened to drive Mr. Symmes and the settlers off this territory to which he had no right. The innocent settlers, who had purchased the land of Mr. Symmes, sent forward representations of their case to the PRESIDENT, which, together with the representations of the Governor, produced an act to change the boundary line of the purchase, which was passed April 12, 1792. This act describes the boundary line of the tract of land to be between the two Miamis and the Ohio. Mr. Ludlow was sent to survey it in 1793, when it was found, that instead of there being one million of acres, there were only five hundred and forty-three thousand nine hundred and fifty, which was duly surveyed, and the survey lodged in the Treasury Office on the 10th of January, 1794. Here arose the first difficulty. The act passed to change the boundary line could not take place without the consent of Mr. Symmes. In consequence, the law was said to be enacted at the request of Mr. Symmes. In 1794, Mr. S. had not made any request, consequently the law was a nullity. He might at that time have said, he would not have the land upon any other than the original contract, and that it was the business of the United States to make up the deficiency; and, if he had so acted, it is probable Congress would have been obliged to have found him one million of acres of land, agreeably to his contract; but, at that time, lands were not raised to so high a price as they were now, and Mr. S. did not think it necessary to avail himself of his contract. On the 11th April, 1792, a petition was presented in his name, stating, that from an advance in the price of certificates, resulted the impossibility of fulfilling his contract, and prayed that an abatement might be made in the price of the land. On the 27th September, 1794, instead of saying he would not abide by the new boundary, he requests an alteration may be made in the boundary. Notwithstanding this request, Mr. S. now says, he did not know any thing of the survey, though more than nine months since it was made. At first sight, it would be supposed the contract was void for want of fulfilment; but as he says he never received from the public a counterpart of the contract (though it is generally

supposed he had in some way got possession of a copy, but no proof existing of it,) the claim was not forfeited. A circumstance was mentioned which seemed to convey a strong supposition that Mr. S. was acquainted with the survey. The day following the request he had made for the new boundary, was issued to him a patent for three hundred thousand acres, referring to that survey. Mr. S. now objects to the releasement which was given of his first purchase as not being complete. It was stated that he had taken possession of land to which he was no way entitled. The necessity of the act being immediately passed appeared from an advertisement (which Mr. GALLATIN read from a newspaper of that country) inviting persons to come and purchase, under an assurance that his original purchase would be completed. Mr. G. said that he had been offered some part of the land at a dollar an acre; he was informed that it would sell for two to settlers. Mr. G. said he knew it to be very capital land; and if the four hundred and fifty thousand acres which remained would sell for nine hundred thousand dollars, while he only gave three hundred thousand for the whole, he would have made a good bargain.

**THURSDAY, February 23.**

***Direct and Indirect Taxes.***

**INCOME AND EXPENDITURE.**

Mr. GALLATIN hoped that the motion would not prevail. He believed he was the only person who had said, that he was not desirous that the bill laying a direct tax should pass this session. For it was true, that, although he was a strong advocate for a direct tax—although he thought a sufficient permanent revenue could not be drawn from any other source, yet he did not wish the law to pass during the present session; and the reason was, because he had not a sufficient reliance upon his own opinion, to wish a subject of this sort to come into being against the opinion of so many members of this House as appeared to be opposed to it. When the United States shall think it necessary to go into the measure, he trusted it would pass with great unanimity. At present, he doubted whether a majority of the country was not against the measure, especially when he not only saw so great a division in that House, but apparently a local division, as he believed only four members East of Hudson's River, and but five South of Virginia had voted for the measure, by which it appeared to be a mode desired only by the Middle States. Until, therefore, gentlemen from those parts had returned home and consulted their constituents upon the subject; until he knew that the law could be carried into effect with more unanimity than at this time appeared, he did not wish to press it. He was willing, therefore, to take all the blame which was imputable to this circumstance upon himself. He never wished the powers of Congress to be exercised in a way which should not meet with pretty general concurrence. Yet, had he thought the situation of the United States had been such, that additional revenue was absolutely necessary to support the public credit, and it could not have been conveniently raised from any other source, every other consideration would have given way to that necessity. But he did not think that any thing which had been said by the gentleman from South Carolina showed that there would be any deficiency in the revenue for the present, which would require additional taxes to supply it.

He would just observe, that the great argument in favor of direct taxes—an argument which had almost wrought conviction upon the mind of the gentleman from South Carolina himself—was the uncertainty of a revenue derived from commerce; and yet, from this circumstance, the friends of indirect taxes wish to extend that plan to the utmost, and raise every thing from it. He should have drawn different conclusions; and from that uncertainty, he should have wished never to have gone beyond those bounds which they knew were safe.

As to the receipts of 1797, Mr. G. said, we had well ascertained them, because they arose from the importations of 1796, which they knew amounted to 6,200,000 dollars, and which sum, with the internal duties, would be fully adequate to the expenses of the Government for this year. Yet some gentlemen thought the calculation too close, and therefore the additional duties before them had been consented to, which he believed every one must acknowledge would be fully equal to any deficiency that could possibly arise. The arguments of the gentleman from South Carolina applied to the year 1798. He said we did not know what might be the amount of the importations of the present year; that it might be less than last year, and therefore, that revenue ought to be provided to supply the deficiency, if there should be any. The arguments would be good, if the gentleman's data were true; but he had forgotten that the expenses of 1798 would be less than those of the present year by 700,000 dollars, including not only the current expenses, but the instalment of the Dutch debts, which in that year would only be 100,000 dollars. The instalment this year is 400,000, so that in this item there will be a difference of 240,000 dollars; in the next place, the 280,000 dollars which this year has been agreed to be paid to the Dey and Regency of Algiers, will not occur again; and also, the 180,000 dollars appropriated for finishing the frigate, would not be to provide another year. These three items made the 700,000 dollars which he had mentioned. In addition he would add, that this year there had been a charge of 200,000 dollars for the defence of the frontier in 1795; but perhaps something might be wanted in that quarter another year, and therefore he would pass over that sum. But he thought there could be no danger of a want of revenue in the year 1798.

Mr. G. said, he would not pretend to say that it would not be desirable to increase the revenue, in order that they might pay a part of such instalments of the foreign debt as would become due after the year 1801. Certainly the sooner our debt could be paid, the better; but he meant only to show that there was no necessity for increasing the revenue for 1798. If it were necessary to



raise additional revenue, it would be for two principal objects, the payment of the Dutch debt and the eight per cent. deferred stock; but as these did not become due till the year 1801, they were not under the necessity of providing the means for it at present.

During the next session, Mr. G. said, they should have time to compare the two systems of taxes together, and to discover which offered the best and most permanent sources of revenue. For the reasons he had given, he should be opposed to the motion.

Mr. W. SMITH said, he should not adduce many arguments to show the propriety of advancing the duty upon this article any more than that upon any other; but he wished to bring before the committee a true statement of the receipts and expenditures of the United States, in order to show what sum of money would probably be wanted to answer the demands of the United States. As he differed considerably from the gentleman from Pennsylvania as to our real wants, he considered it as his duty to lay this statement before the committee. He had investigated the subject with as much accuracy as possible. He had attended to the documents which had been laid before them, to the laws which would probably pass this session, and to the probable increase of revenue. The result of this examination was, that there would be a deficiency of about a million of dollars. To what the additional imposts already agreed to would amount, he could not say, but he believed they would make 200,000 dollars, which would leave a deficiency of 800,000 dollars. He made the following statement:

***Expenses of 1797.***

Civil list,	\$634,322
Military and Naval Establishment and pensions,	1,284,532
Deficiency of 1796,	201,000
Algerine appropriation,	376,500
Interest of Domestic Debt,	3,471,972
Interest on Dutch debt,	614,241
Instalments do do. 1797,	400,000
Premium remitt. &c.	50,000
Appropriations for frigate,	171,000
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	7,213,567
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***Revenues of 1797.***

Impost,	\$5,588,961
Internal revenues,	337,255
Post Office,	35,000
Bank stock,	150,000
Stock redeemed,	88,636
Sundries,	746
	-----
	6,200,598
Additional imposts in 1797,	200,000
	-----
	6,400,598
Probable deficiency of revenue,	812,969
	-----
	7,213,567
	=====

It would be observed, Mr. S. said, that the gentlemen from Pennsylvania and Maryland, had calculated the impost at 6,200,000 dollars, whilst he made it only at 5,588,961, which he took from the Secretary of the Treasury's statement, and he believed this was the safest calculation. He would not go into any very long argument on this subject, because it had frequently been under discussion.

Mr. GALLATIN inquired from what document Mr. SMITH took his calculations?

Mr. W. SMITH answered, from the report of the Secretary of the Treasury, which was calculated upon a permanent plan. In calculations on the subject of revenue, the largest amounts should not be taken. It was not policy in gentlemen to adopt that plan; they should make allowances for deficiencies and accidents. The situation of this country at present required it, and it would be safe, prudent, and discreet, to do so. The Secretary of the Treasury had estimated the internal revenue at 337,255 dollars, while those gentlemen made it 469,579. This they stated from the revenue of last year, which it was probable would be considerably more than this. He thought there was as much reason for taking one as the other statement; and the Government would be exposed to hazard and danger, unless allowances were made for deficiencies.

The deficiency, according to his calculation, was 1,012,969 dollars, and after deducting from that sum 200,000 for the additional duties in the bill before them, there would remain a balance of

812,969 dollars. Admitting the gentleman's own statement to be true, there would still be a deficiency of 100,000 dollars, and this without making any allowance whatever for accidents and occurrences which will always happen, without making any provision for the purchase of the public debt, which might at this time be purchased to great advantage. If there had been money in the Treasury for the purpose, instead of paying the debt at par, it might have been bought up at 16 or 17s. in the pound. And he was of opinion, from the present situation of things, the public debt would remain low, and that a surplus in the Treasury might be well employed in purchasing it.

So much for the revenue and expenses of the present year. With respect to 1798, there was no necessity to go much into that subject. The gentleman from Pennsylvania had estimated the instalment of the Dutch debt, payable in this year, at 160,000 dollars only; but he asked whether it would be wise to pay only that sum? And whether it had not been in the contemplation of that gentleman, as well as others, to pay as much as they could yearly? He knew they should not be obliged to pay more; but he believed it would be a wise policy to pay an equal sum every year. That gentleman made another deduction of 280,000 dollars, which had been granted to the Dey and Regency of Algiers this year; but might they not expect items which they did not contemplate, to this amount? Contingencies, he said, occurred, which always swelled the expenses greater than were contemplated. There was always something of an extraordinary nature occurring to call for money; either an Indian war, or insurrection, depredations of foreign powers, or attacks by the Algerines. There was no guarding with certainty against them. The next deduction was 100,000 dollars for the frigates. Whether this would be saved or not, was uncertain. The next House might agree to go on with the frigates.

Upon the whole, Mr. S. said, it would be prudent to provide a sufficiency of revenue, and there was no prospect of getting it from any other than the objects contained in the bill before them. A land tax was agreed to be laid aside for the present, as gentlemen from the Eastward seemed wholly against it, and those of the Middle States seemed to have grown lukewarm upon the subject. The duty on stamps, which would have provided considerable revenue, was also laid aside. They had agreed to lay low duties upon distilled domestic spirits; no increase could therefore be expected from that quarter. They could, then, only resort to such articles of impost as would be likely, from their general demand and other circumstances, to produce additional revenue. As, therefore, no prospect appeared of getting other revenue than by the article before them, he should be compelled to agree, though with reluctance, to the advance of the duty on sugar.

With respect to their lands, they had authorized public stock to be received in payment; and, though he thought this a very valuable regulation, both for facilitating the sale of the land, and for paying off the debt, the lands, on this account, would not produce much cash into the Treasury.

Mr. S. SMITH said, very early in the present session, he read, with some attention, the report of the Secretary of the Treasury on the subject of direct taxes. He cast his eye upon certain articles which he thought proper subjects upon which to raise further sums from indirect sources, among which were salt, sugar, tea, and the whole of the 10 per cent. class of goods; he communicated his sentiments to other gentlemen, and they had been brought forward.

He supposed the House would have gone into a system of direct taxes. This he had always considered as a difficult subject, and he never could, himself, form a plan adequate to effect it; but he was desirous that the subject should have been taken up, that in case of extremity it might be called into operation. He did not think any immediate wants of the revenue required this tax to be put into execution, but he wished to take it into consideration, to see what could be done with it. He had still his doubts whether it could be carried into execution; if it could, it would doubtless form a valuable source of revenue, which could not be injured. He had no doubt, however, of the present revenue being equal to our present wants. The gentleman from South Carolina (Mr. W. SMITH) had taken his calculations from the report of the Secretary of the Treasury; but the Secretary went into a permanent calculation for a period of 18 years, in the course of which he calculated the sinking of the whole debt.

The trade of 1796, Mr. S. said, would give nearly a million of dollars; of course there could be no apprehensions upon the minds of gentlemen that the receipts of 1797 would not be equal to the wants of Government. The tax upon sugar would produce 300,000 dollars. The gentleman from Pennsylvania (Mr. GALLATIN) was correct on this subject.

The gentleman from South Carolina (Mr. W. SMITH) had said, it was not wise to calculate upon the highest returns; but Mr. S. SMITH said it was right to calculate upon a preceding year, and when they knew that there would be received in this year from 700,000 dollars to one million, there could be no doubt of the year 1798 falling far short of that sum. For he was not one of those who thought the revenue arising from this year would be much inferior to that arising from the last.

The gentleman from South Carolina (Mr. HARPER) had supposed that the British spoliations had not affected our revenue, but that those of the French would be severely felt. He saw no difference between them, and believed they would be felt alike in proportion to their extent. [Mr. HARPER explained.] He believed the United States would only consume a certain portion of the goods imported; the rest would be re-exported, and the drawback received upon them; and, as he did not believe the consumption of the United States had been lessened, it would follow that it had been the re-exportation which had been diminished, and, of course, that it would not be the duties which would be decreased, but the drawbacks. This being the case, little was to be apprehended from a defalcation of the revenue this year.

Indeed, he was of opinion, that the revenue arising from the present year, would be equal to any preceding year. The expenses of 1797 would be as follows:

**ESTIMATE FOR THE YEAR 1797.**

Instalment due on part of the Dutch debt, with interest on the whole debt, together about	\$ 992,000
Annual 8 per cent. and 6 per cent. stock,	2,324,175
Annual interest on 3 per cent. do.	587,926
Ditto on 5-1/2 per cent. do.	101,689
Ditto on 4-1/2 per cent. do.	7,920
Ditto on supposed unfunded debt,	78,261
Ditto on Bank loans,	372,200
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	4,463,971
Internal expenditures (as below)	2,255,255
	-----
	\$6,719,226
	=====
Civil List, Mint, and Diplomatic, (agreeably to the Secretary's report, estimated on the session of six months,)	\$564,753
Deduct savings arising on the session of four months only,	52,800
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	511,953
Bill for foreign intercourse,	40,000
Light-houses,	45,647
Miscellaneous claims,	12,000
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	\$609,600
	=====

**MILITARY DEPARTMENT.**

Pay of four regiments and artillery corps,	\$256,450
Subsistence,	236,900
Clothing,	75,000
Bounties,	16,000
Hospital Department,	25,000
Ordnance	40,000
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	649,350
Amount brought forward,	\$649,350
Two instructors,	1,450
Quartermaster's Department,	150,000
Defensive protection,	60,000
Indian Department,	90,000
Contingencies of War Department,	15,000
Repairing fortifications,	20,000
Military Pensions,	93,350
Naval Department,	190,000
Balance due on Algerine business,	376,505
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Internal expenses of 1797,	\$2,255,255

The expenses of the Quartermaster's Department would in future be considerably lessened; for, said Mr. S., heretofore great expense had been incurred by land carriage, which in future would be avoided, as the forage would all be conveyed by water. Indeed it had not been an unusual thing for the horses employed in conveying forage from one post to another, to eat the whole of it in their journey to and from their destination, and some horses had been known to die from want on the road. The conveyance being now by water, a great destruction of horses would be prevented, and he doubted not that one hundred thousand dollars would be saved under this head.

**FRIDAY, February 24.**

*Amy Dardin.*

The House proceeded to consider the report of the Committee of Claims, of the sixth ultimo, to whom was referred the petition of Amy Dardin, which lay on the table; whereupon, the said report was read at the Clerk's table, in the words following, to wit:

"That the most important, and all the material facts respecting this claim, are stated in the former report of the committee appointed to consider the said petition. To that report the committee now ask leave to refer. Whatever justice there might originally have been in this claim against the United States, it is now, and for many years past has been, as clearly within the statutes of limitation, as a multitude of others, which have been rejected. The committee regret that no relief can, with propriety, be granted to the petitioner, upon her application. So many evils would result from a suspension of the limitation act, for the admission of claims similar to the one under consideration, the committee cannot recommend that measure to be adopted. They are of opinion the prayer of the petition ought not to be granted."

The question was taken that the House do agree to the said report, and passed in the negative—34 to 27; when Mr. GALLATIN moved that a committee be appointed to bring in a bill in favor of the petitioner. This motion occasioned some debate.

Mr. GALLATIN said, he rejoiced in the vote which had passed in respect to the report before them, as it was a precedent against the act of limitation. When a claim was clear, it was a denial of justice not to pay the debt. He did not think it was more justifiable in a Government to refuse to pay its debts, than it was in individuals to do so. Though an act of limitation had been passed, they ought only to consider it, in a modified sense, as a guard against fraud; but, in cases where they were convinced a debt was justly due, he did not see upon good principles they could refuse to pay it. He was sure there was not a member on that floor that would do so in his individual capacity. Nor did he believe they needed to be operated on by the fear of a number of these claims being brought: he believed their number was small. But, said he, shall we fear that we shall be called upon to pay a few more just debts? He trusted so unworthy an apprehension would not prevent them from doing what was right. The act of limitation was produced, he said, by an incapacity to pay the claims which were made upon Government, and now they took advantage of that capacity, by refusing to pay the just demands which were made upon them. The certificates which had been given, not worth more than one-eighth of their nominal value, had been scattered all over the United States, and the distance from the seat of Government had been the reason application had not been made for payment. He spoke from his own knowledge. He had some of them put into his hands. Some of them he was fortunate enough to get paid before the act of limitation passed; others were yet unsettled. It was only since the erection of this Government, which had given them the ability to pay, that these claims were brought forward; for six or seven years every kind of claim was mustered, and the public debt was considerably swelled by them, but now a contrary extreme was observed, and no claim, however just, had a chance of being satisfied. He had never troubled the House on a subject of this kind before, but he had taken advantage of the fortunate decision of this morning to say a few words on the subject.

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MESSRS. HEATH, MACON, WILLIAMS, and D. FOSTER, were against a committee being appointed to bring in a bill; they hoped no partial regulation would take place, but that if any exception was made, from the operation of the act of limitation, it would be done in a general way, as there was a great number of claims equally well entitled, with Mrs. Dardin's, to payment. Indeed, Mr. D. FOSTER, Chairman of the Committee of Claims, (who was not present when the question was taken upon the report,) said, if this claim was granted, it would bring forward a thousand others.

The report, petition, and papers, were committed to the whole House on Monday.

## **SATURDAY, February 25.**

### ***Suability of States.***

On motion of Mr. HARPER, the House then resolved itself into a Committee of the Whole, on the report of the select committee on the resolution sent from the Senate, authorizing the PRESIDENT to make inquiry of certain States whether they had adopted the proposed amendment to the constitution with respect to the suability of States.

The select committee did not confine themselves to this single amendment, as reported from the Senate, but went back to the year 1789, when twelve amendments were proposed by Congress; for though they state eleven States out of fourteen had ratified ten of these amendments in the year 1791, yet they were of opinion that a doubt might arise whether eleven States ought to be considered as the three-fourths of fourteen; they therefore wished the PRESIDENT to be requested to make inquiry also from the non-ratifying States on the subject of these ten amendments.

Mr. NICHOLAS said, the resolution of itself was only exceptionable as it had connection with the statement which went before it, in which it was made a question whether the ten last amendments of the twelve proposed by Congress to the States in March, 1789, were ever made part of the constitution. He did not wish a doubt to be expressed on this subject. This doubt, in the opinion of the committee, it seemed, rested on a supposition that eleven were not three-fourths of fourteen. He could not conceive how any doubt could arise on this subject, since it must be acknowledged by every one that eleven was more than three-fourths of fourteen. If the objection arose from fourteen not being divisible in equal fourth parts, it was an objection to the

constitution as originally made. It was formed by thirteen States, which was no more divisible into fourths than fourteen. On this ground, an amendment could never have been made to the constitution. He hoped the Chairman of the committee would give them some information on the subject.

Mr. HARPER said, it was not of much importance whether the committee had doubts, or whether those doubts were well founded. The committee stated they had these doubts. He had them; not whether eleven was three-fourths of fourteen, according to arithmetical calculation—every school boy knew, that, in that view, eleven was more than three-fourths of fourteen; but it was, whether you could make a division of States. He believed it could not be done; he believed there must be twelve ratifying States to be three-fourths, as intended by the constitution, because that number would be three-fourths of sixteen, which was the nearest number to fourteen capable of four equal divisions. Whether this doubt was well founded or not, there could be no harm in directing the inquiry to be made; it would be made as soon for thirteen amendments as for one, and if any other State should have ratified the ten amendments in question, all doubt would be removed. Mr. H. noticed an error or two which had escaped the committee in their report.

Mr. GALLATIN said, the resolution under consideration went to direct the PRESIDENT to apply to all those States, by whom, as far as can be known from the official documents heretofore transmitted, all or any of the amendments at any time proposed by Congress still remained to be ratified. There could be no occasion to make the inquiry with respect to all these amendments, unless it were taken for granted that none of them had yet been ratified. He was, therefore, of opinion, with the gentleman from Virginia, that such an application would be very improper, as bringing the ten last amendments into doubt, which he believed to be as much a part of the constitution as any other article in it; he also thought them a very valuable part, and not to be trifled with.

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But, upon what ground, said Mr. G., do the advocates of this report prove that 11 is not three-fourths of 14? The idea was so novel that he could scarcely understand what principle they adopted in order to create a doubt on their minds on this subject. To him the position that 11 was more than three-fourths of fourteen appeared to be one of those self-evident axioms which hardly admit of a proof. The principle on which the doubt arose must be so very nice, so abstract, that he did not know whether he was capable of comprehending it. Anxious as he was to avoid saying any thing which might be construed as misstatement, he would, however, attempt to analyze what he conceived to be the ground of the gentleman from South Carolina, (Mr. HARPER.)

It appeared to him that that gentleman thought three-fourths in itself was not a fraction of the unit, was not a number conveying to the mind the simple idea of a fraction; but that it was a compound of fractions, and that the only way by which the idea of three-fourths could be conceived was by a decomposition. Because the idea of three-fourths was by our numerical arithmetic expressed by the two figures  $\frac{3}{4}$ , that gentleman was unable to conceive what it meant except by decomposition, by dividing the unit into four equal parts and multiplying the result by 3. And if that idea of three-fourths had happened to be expressed by the fraction nine-twelfths, (which was the same thing as three-fourths,) that gentleman could not have conceived it except by dividing in the first place the unit into twelve parts and then multiplying the result by nine. In fact he denied the existence of any number, part of a unit, except as it consisted of an aggregate of such parts as the unit could exactly be divided into.

Thus, when speaking of fourteen States, although he (Mr. GALLATIN) could at once understand that three-fourths of fourteen was ten-and-a-half, and, therefore, (admitting, as he did together with that gentleman, that the vote of a State was indivisible) that eleven States were more than three-fourths of fourteen, the gentleman from South Carolina proceeded in a different way. The fourth part of fourteen being three-and-a-half, he says that, as a State cannot be divided, you must take four States instead of three-and-a-half for the fourth part of fourteen, and then multiplying these four States by three, in order to get the three-fourths, he concludes that twelve States are three-quarters of fourteen—that the twelve States out of fourteen are necessary to ratify the amendments. He believed the gentleman would allow that he had not misstated his opinion.

Let us now see, said Mr. G., how this doctrine will operate. It would go to prove, in some instances, that three-fourths of a number is greater than the whole. Suppose, for instance, the case of five States. One-fourth of five is  $1\frac{1}{4}$ ; but as the vote of a State cannot be divided, you must call it two; or, as the gentleman expressed it, five not being divisible into four equal parts, you must take the nearest number to five capable of such division, that is to say 8, the fourth part of which is two; two, therefore, must be considered as the fourth part of five States, and as three multiplied by two is six, it follows, according to that gentleman's doctrine, that the three-fourths of five is six! Suppose that, in the constitution, instead of the expression three-fourths, it had been said that nine-twelfths were necessary. The number of States when the constitution was framed was thirteen. In that case one-twelfth of thirteen being one and one-twelfth, you must, the vote of a State being indivisible, call it two; so that in that way of reckoning, nine-twelfths (which is the same thing as three-fourths) of 13 is 18! Consequently, the consent of eighteen States would have been necessary in order to ratify any amendment to the constitution of a nation consisting only of 13 States.

Let us, said he, examine a little farther. The same part of the constitution which provides for amendments of the constitution, says, that an amendment shall be proposed by two-thirds of both Houses of Congress; but he supposed the vote of a man was no more divisible than that of a State. He wished to know, therefore, how the gentleman would, on his principle, calculate what were two-thirds of the members present when their whole number was not divisible by three?

In making treaties he wished to know what was meant by two-thirds of the members of the Senate present? If the number present happened not to be divisible by three, would that gentleman say, that, in that case, the next number above the number present must be taken, which would be divisible by three, and that if two-thirds of that number did not concur in the vote for the treaty, no treaty should be ratified? On that principle, in some instances, a greater proportion of the Senate would be necessary to ratify a treaty than had been usually understood, according to the generally received opinion of the sense of the constitution in this respect.

Upon the whole, he believed it would be best to reject the report, as, besides the objections alluded to, it was confessedly inaccurate in some of its parts, and adopt the resolution sent from the Senate, which applied only to the amendment respecting the suability of States. If the House meant to go any further, they might introduce the first and second amendments proposed at the same time with the other ten, but which had not yet been ratified.

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Mr. HARPER said, he would add a word or two to what he had already offered on this subject. He did not know whether the House thought with him on this subject, that it was a doubtful point whether the ten amendments in question had been ratified according to the sense of the constitution. If they did, they would of course, vote for the report. The gentleman from Pennsylvania, he acknowledged, had not only shown his knowledge in arithmetic, but also his wit, which had not until now been brought before them. In the enjoyment of the last he had participated in common with the House.

Mr. DAYTON (the Speaker) was in favor of rejecting the resolution reported by the select committee, as it embraced too many objects, and held out a kind of invitation for States to come forward and propose amendments to the constitution. He trusted the first of the amendments, proposed in 1789, relative to the proportion of representation, never would be agreed to, as it would have extremely mischievous effects. Indeed, if any thing were done with respect to that amendment, he should think it ought to be to request those States which have not adopted it, not to do it, and those who have agreed to it, to revoke their vote in favor of it.

The question was then taken on the resolution reported, and negatived, without division.

The resolution was as follows:

*"Resolved*, That the President of the United States be requested to apply, as speedily as may be, to all those States, by which, as far as can be known from the official documents heretofore transmitted, all or any of the amendments, at any time proposed by Congress, still remains to be ratified; and to obtain from them authentic information of the proceedings had by them, respectively, on the subject of those amendments, or any of them."

The question was then taken on the resolution of the Senate, and agreed to. It was as follows:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the constitution, concerning the suability of States: If they have, to obtain the proper evidences thereof."

### ***Accommodation of the President.***

On motion of Mr. GALLATIN, the House resolved itself into a Committee of the Whole on the bill to accommodate the PRESIDENT OF THE UNITED STATES; when

Mr. HENDERSON said, he wished for information on this subject, as he had not sufficient to convince him of the propriety of granting 14,000 dollars, in addition to the furniture now in possession of the PRESIDENT; he therefore moved to strike out the 14,000, for the purpose of inserting 5,000. The bill informed them that this sum, in addition to what might arise from the sale of such of the present furniture as may be decayed, out of repair, or unfit for use, was to be laid out in furnishing the household for the PRESIDENT. It was very lately that they had received a proposition from the Senate to advance the salary of the PRESIDENT 5,000 dollars; the bill was rejected by that House. It appeared to him that this bill went to effect the same thing in a different way. If the object was merely to furnish the household of the PRESIDENT, he thought a much less sum would be adequate to that purpose. He thought 5,000, with the proceeds of the sale of such of the present furniture as was unfit for service, might be sufficient. He had no doubt that the sum would make the furniture of the PRESIDENT for four years to come equal to what it had been for four years past.

Mr. NICHOLAS wished the gentleman would leave the sum blank, instead of inserting 5,000.

Mr. HENDERSON consented.

The question was taken, and negatived—42 to 39.

The committee then rose, and the House having taken up the subject—

Mr. NICHOLAS said, as a majority of the House was against striking out this sum, he wished to have some information why this sum was fixed upon, and for what purpose it was to be applied. No one wished more than he did to place the PRESIDENT in a situation conformable to his station; but according to his information, this sum was more than was given to the present PRESIDENT on his entering upon the office, though there remained the whole of the furniture, most of which was

worth as much at this time as it was when first purchased.

Mr. SITGREAVES said, he would give to the gentleman all the information which he had on the subject. In the year 1778 or 1779, by a resolution, of the old Congress, an household was established for the PRESIDENT of Congress. This remained until the present Government went into operation in the year 1789. It was then resolved, that Mr. OSGOOD should be requested to fit up the House in a proper manner for the reception of the PRESIDENT OF THE UNITED STATES. In that year the law passed for compensating the PRESIDENT OF THE UNITED STATES, which enacted that a salary of 25,000 dollars should be allowed him, together with the use of the furniture then in his possession belonging to the United States. This furniture cost the United States 13,657 dollars, 83 cents. During the period from 1779, when the household was first established until 1789, when the PRESIDENT OF THE UNITED STATES entered upon his office, the furniture which had been purchased for the PRESIDENT by Congress, was so much decayed, that it required nearly 14,000 dollars to replenish it. It was the opinion of the joint committee, therefore, that in a lapse of eight years, viz: from 1789 to the present time, the furniture then purchased must have experienced equal dilapidation and decay, and that a sum at least as large as was then allowed (particularly when it was considered that the price of goods was very much advanced since that time) should now be allowed for putting the present household upon the same footing of respectability and convenience with that at New York in 1789. Mr. S. did not know that he could give any further information on the subject. It was a matter of notoriety that a great part of the goods then purchased were worn out and destroyed; such as the household linen, crockery ware, &c., and that the PRESIDENT had renewed them at his own expense; insomuch that if he were to take out of the House the furniture which he had supplied, there would little remain in it besides tables, chairs, bedsteads, and a few such articles; since all the carpets and ornamental furniture of the House had been purchased by himself.

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Whilst he was up, he would wish to obviate the only objection which had been adduced to this bill. The gentleman from New Jersey (Mr. HENDERSON) had supposed that this allowance was meant to carry into effect what had been rejected in another way, alluding to the proposed advance of salary. That gentleman might see a very obvious distinction between the two things. If \$5,000 had been added to the salary of the PRESIDENT, he could have disposed of it as he pleased; but the money now proposed to be granted, was to be employed in the purchase of furniture, &c., which would remain the property of the United States, and would devolve upon the next PRESIDENT. Mr. S. said, he would add, that in the joint committee there was not a dissenting voice to the proposition, and he hoped there would not be one in the House.

The question was put for engrossing the bill for a third reading, and carried, there being fifty votes in favor of it. This day and Monday were mentioned for the third reading; the question was carried for the most distant day, 40 to 35.

## MONDAY, February 27.

### *Accommodation of the President.*

The bill to accommodate the PRESIDENT was read the third time; when Mr. HEATH moved to have the bill recommitted, for the purpose of striking out \$14,000 to insert \$8,000. He thought \$14,000 too large a sum to be given to purchase new furniture; \$8,000 he thought would be a sufficiently handsome sum for the purpose. They were apt to be too lavish with the public money on some occasions, and too sparing on others. He had not been satisfied with the reasons which had been given by the Chairman of the committee for giving the sum now in the bill. At a time when our Treasury was so much in want of money, he did not wish so large a sum to be given for this purpose; nor did he think it necessary, except it were to put our PRESIDENT in the style of a potentate or prince. And this he was sure the PRESIDENT OF THE UNITED STATES would not wish, as he believed he was a gentleman of great economy, and would spurn at any thing like tinsel or expense. Five thousand dollars had been thought a sufficient sum for this purpose, but he was willing to give \$8,000. He hoped the bill would therefore be recommitted, and this sum be inserted.

Mr. MACON seconded the motion for recommitting the bill. He was against it altogether. He did not see why they should furnish the house of the PRESIDENT any more than that of any other of their officers. He thought the thing improper at first, and that it was wrong to continue the practice. If the salary was not large enough, it should be made larger, though he thought it sufficiently large.

Mr. RUTHERFORD concurred with his colleague, Mr. HEATH. It was necessary, he said, that Republicans should be consistent. If we thus give away the people's money, said he, shall we not be charged with rapaciously putting our hands into their pockets? Have we not, he added, refused to redress grievances and injuries, and to do justice to many deserving and distressed citizens, because our Treasury is low? And shall we now, when there is no right reason for it, lay hold of the public Treasury, and lavish away \$14,000? For what? For adding new furniture to the house of the PRESIDENT. No; he was willing to render him all possible respect; he remembered well his letter to our sister Republic of Holland. He had a pretty good memory. He remembered well his patriotism; but he saw no reason to give him \$14,000. He would give him \$8,000, which he thought would be a very pretty compliment; but to give \$14,000 would outrage every idea of that economy and Republican simplicity which ought to characterize the American nation. Why, said he, shall we, who are a Confederacy of the Democratic Republicans, everlastingly keep our eyes upon the pageantry of Eastern Courts? Let us rather attend to our own character than that of any

despotic nation upon earth. He hoped the bill would be recommitted.

The question for recommitting was carried—45 to 40.

The House accordingly resolved itself into a Committee of the Whole on the bill, when—

Mr. HEATH moved to strike out \$14,000 and insert \$8,000.

Mr. GILLESPIE called for the estimate, which he understood was in possession of the committee.

Mr. SITGREAVES said there was no estimate before the House or committee. All that he had seen was a list of the furniture which had been purchased for the PRESIDENT in 1789. He himself had not had patience to go through it; but if the gentleman wished it, it might be read to the House.

Mr. HARTLEY hoped there would have been no objection to this appropriation. He thought the Chairman of the committee had fully shown the propriety of granting the \$14,000 to the PRESIDENT, who was not merely an officer of the Government, but a branch of it. It was not giving the money away, but merely advancing it on account of the United States. He was not in favor of high salaries, but he wished the situation of the PRESIDENT to be made comfortable and respectable.

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Mr. HEATH said, he believed a great part of the furniture which was purchased in 1789, was at present as good as when laid in; this was particularly the case with respect to the mahogany furniture; and he thought the \$8,000 would be a sufficient sum to replace all articles of a perishable nature, such as carpets, linens, &c.

Mr. HOLLAND was in favor of striking out, because it was only necessary to appropriate as much as might be necessary whilst Government remained here, as, when it should be removed, the furniture now used might not be suitable for the house at Washington. At that time, he supposed a further sum would be called for, and therefore he thought a less sum than \$14,000 would be sufficient for the present purpose.

Mr. WILLIAMS was in favor of the bill as it stood. He had been told that it was the intention of the State of Pennsylvania to make an offer to the PRESIDENT of the house which had lately been erected in this city; if so, perhaps the furniture which might be purchased for it would be suitable for the house in the Federal City. He had before said that he thought it would have been better to have augmented the salary of the PRESIDENT, and let him purchase his own furniture. But as that had not been agreed to, he wished the committee now to rise and report progress, that information might be gained on the subject; because he thought if he was to have that house, that sum would not be too large.

Mr. SITGREAVES said, he did not know whether the Legislature of this State would conclude to make the PRESIDENT the offer which the gentleman last up had mentioned; but of this he was sure, that if they did, he could not afford to accept of it. For, if this bill passed, he was certain that, under such circumstances, he could not remove into that house, because he would not be able to furnish it.

Mr. S. said, he was surprised the House should so suddenly change their opinion. He thought he had given sufficient information on the subject to have shown the necessity of the grant. [Mr. S. here repeated what he had before noticed respecting what had been allowed on a former occasion.] When gentlemen entered minutely into the subject, they seemed to have information which was not very correct. He believed the sum mentioned in the bill not more than sufficient. The decay which had taken place in the PRESIDENT'S household would require that sum to make it good. The gentleman from Virginia supposed there were many articles, not perishable in their nature, which could not have been injured by their use. He was mistaken. There was nothing but about \$800 worth of plated ware and the mahogany furniture which could at all come under this description. Indeed, any gentleman who was in the habit of paying his respects to the PRESIDENT OF THE UNITED STATES must have seen with regret that the appearance of his furniture was so far inferior to that which was to be found in the houses of any of our wealthy citizens, or even of those in moderate circumstances. When this was a notorious fact, what ground, he asked, could gentlemen have for comparing the household of the PRESIDENT to the pomp and splendor of Eastern Courts? On the contrary, he thought there was a humility of appearance in the house of the PRESIDENT, which he would not say was a disgrace to the country, but which at least proved its rigid economy.

Mr. NICHOLAS said he voted for going into Committee of the Whole on this subject from an idea that the sum proposed to be given to the PRESIDENT was larger than was necessary, though he confessed he could not say what that sum ought exactly to be; he was for giving enough and rather too much than too little. Indeed, when he considered that the whole sum was not to be expended, except it should be found necessary, and that a certain style was expected to be observed in this station, he was not for stinting the sum to what he thought just enough for purchasing furniture. If the whole of the money granted must of necessity be expended in furniture, he should have had more hesitation on the subject; but as the expenditure would be left to the discretion of the PRESIDENT, he could not suppose, from the well-known habits of economy of that gentleman, it would be improperly disposed of. He therefore felt no difficulty in agreeing to the sum in the bill; for though he thought the sum too large, yet he would not so confine the appropriation as to oblige their officer to go about the streets to look out for cheap purchases of furniture.

Mr. BUCK said, previous to these measures being brought forward, they had decided against any advance to the salary of the PRESIDENT. All that time a committee was appointed to inquire into the state of the PRESIDENT'S household, and to report whether any, and what, further accommodation



was necessary to be afforded. He conceived that it was the wish of that House that the gentleman who was coming into office should have accommodations equal to those which had been given to the gentleman who was leaving it. The committee had examined into facts, made a report, and a bill had been brought in accordingly. The committee had informed them upon what principles they had acted; and it did not appear that they either intended to increase the splendor of the household of the PRESIDENT, nor to add to his salary. If any member could come forward and show that the report of the committee was erroneous, they should have some ground upon which to reject it. He had heard no man say this, and therefore all that had been offered on the subject ought not to weigh against that report. When the bill was before them on Saturday, there was a considerable majority in favor of it, and as they had no new information on the matter, he saw no reason for a change of opinion.

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Some members, Mr. B. said, had held out an idea that they were about to give this money away, to enable the new PRESIDENT to live in the style of foreign Courts. If the inhabitants of this city had adopted this style, then it would be chargeable against the PRESIDENT, but not otherwise, since it was acknowledged he had not kept pace with them in this respect. The appropriating this money would only be converting it into so much public property; for, when his term of office should expire, he could not carry away a single article. It was not, therefore, giving away a farthing, but merely providing for our own convenience to enable the PRESIDENT to fill the office with comfort and reputation; and as they had nothing before them to show the sum too large, he saw no propriety in rejecting it, for the purpose of inserting any other.

Mr. RUTHERFORD said, if the House had committed an error one day, it would be well for them to correct it another. If they were to give \$14,000 away on the present occasion, he thought they would commit a very serious error. The gentleman from Pennsylvania (Mr. SITGREAVES) had said many of the citizens of Philadelphia lived in a superior style to the PRESIDENT. If so, he would say they were very bad citizens, since it was proper that the citizens of this rising Republic should cultivate a simplicity of living and of manners.

Mr. MACON thought some of the arguments introduced on this occasion were very improper; such as the habits of economy or private fortune of the gentleman who was to succeed to the Presidential chair. They were about to settle a permanent principle, which it was proper to do at this time, before a new Presidency commenced. He knew nothing of the private property of the person who was to fill the office, nor had it any thing to do with the matter. The question was, whether they were to go over the same ground every four or eight years of furnishing the house of a new PRESIDENT? He did not wish that it should be so; he wished the salary to be the only consideration which the PRESIDENT should receive for his services. If it had not been settling a permanent principle, he should not perhaps have opposed it.

It had been said that the old PRESIDENT of Congress had a household furnished him, but he received no salary from the United States except his household. He considered this sum as an advance upon the salary paid to the PRESIDENT by the different States, and before any salary was fixed by the United States; but now, as an ample salary was paid to the PRESIDENT, he did not think such a provision should be continued. It was sometimes said that it was no matter what sum was appropriated, as, if it was not wanted, it would not be expended; but, he believed, whatever sum was appropriated would be expended; for he was not one of those who thought that revenue could not be found. He believed if the money was granted, it would be both found and spent.

Mr. SITGREAVES wished to correct the gentleman last up with respect to one fact. He had said the PRESIDENT of the old Congress had no salary. It was true that he did not receive any thing under that name, but there was a provision, not merely for the furniture of his house, but for the constant provision of it; and this was so considerable that from 1778 to 1779, in one year, eighty-three thousand dollars were paid for that purpose.

Mr. MACON wished to know what sort of money this was; he supposed it was in depreciated paper.

Mr. SITGREAVES was not certain what kind of money was meant.

Mr. JEREMIAH SMITH said, in settling an affair of this kind, it was proper to have respect to the office, and not to the man who was to fill it. He could himself consider the establishment of the PRESIDENT's household in no other light than in the nature of a compensation for his services, in the same way that he considered the privilege of franking, stationery, and newspapers, allowed the members of both Houses, to be such; because, if they were not allowed to them, they would have to purchase those articles themselves; and if furniture was not provided by Government for the house of the PRESIDENT, he must himself furnish it out of his salary, or from his private purse. To refuse to provide the necessary furniture would therefore be to reduce his salary; for it was true that this plan of presenting furniture to the PRESIDENT was adopted before the salary was fixed, so that it must have been considered as being additional to the salary. And was that salary, he asked, near so valuable now as it was when fixed? Certainly not. He trusted, therefore, they should not reduce it.

This sum, Mr. S. said, was mentioned, from a consideration that four years hence the seat of Government would be removed, and that then the furniture would be in a great degree useless. They, therefore, only recommended such a sum as they thought would be sufficient to put the furniture in a proper state for that term. He believed that fourteen thousand dollars would not do more than that.

Mr. MACON said he was always opposed to the privileges allowed to members of franking, &c. Gentlemen talked about a statement; he did not know what that might contain, he had not seen it; but he did not know how it could require fourteen thousand dollars to repair furniture which at

first cost only thirteen thousand.

Mr. JEREMIAH SMITH said, the gentleman last up was inaccurate in his statement. The thirteen thousand dollars which were allowed for furniture for the late PRESIDENT, was in addition to the furniture which had already been in possession of the PRESIDENT of Congress.

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Mr. SHERBURNE said, the question was with respect to the quantum of money to be granted, as every one seemed to allow that a certain sum was necessary. By having recourse to what was done for other officers of the Government, they might, perhaps, form an estimate of what would be reasonable on the present occasion. A practice had been established of allowing our Ministers to foreign countries a sum as an outfit equal to one year's salary; so that nine thousand dollars were allowed a Minister for this purpose, though it might happen that he would not be employed more than a few months in the service. He thought, therefore, that fourteen thousand dollars could not be thought too large a sum for the PRESIDENT OF THE UNITED STATES, whose term of service was for four years, and which would go to his successor in office; whereas, the nine thousand dollars allowed to a foreign Minister were entirely at his disposal, though he might not be in the service more than a month.

Mr. AMES said, it appeared to him that it would be desirable to proceed according to precedent, as nearly as they could. It was not desirable to innovate or change the established order of things, except strong reasons existed for the change. On inquiring what had been the practice heretofore, they found the PRESIDENT of the old Congress, as well as the PRESIDENT now going out of office, had establishments made for their household similar to that now proposed. If they looked forward to that period when the seat of Government was to be removed, and considered the furniture which would be necessary for the house in the Federal city, it would be seen that there would be a necessity for a new establishment at that time, as it was evident that the present furniture or what might be purchased with the sum now contemplated, would be wholly inadequate to the furnishing of that house. He supposed an additional grant of twelve or fifteen thousand pounds would be necessary for that purpose.

We have chosen an elective Government, said Mr. A., and if it were meant to be kept pure, they must encourage the people to make choice of such men, without respect to fortune, as they think will serve them best, but if instead of providing a suitable household for the PRESIDENT, they left him to provide for himself in this respect, men of large fortune only could engage in this part of the public service. And would this, he asked, be doing honor to the Republican Government? He thought not.

The question for striking out was put and negatived—55 to 36. The committee then rose, and when the question was about to be put in the House—

Mr. GALLATIN said, the provision of the bill left it to the discretion of the PRESIDENT whether he would expend the whole of the money, or not. His opinion was, that the sum was too large; but the question for striking it out having been negatived, the expenditure must be left to the discretion of the PRESIDENT. He did not mean to go into any detail. He did not wish to place the gentleman coming into office in a worse situation than that of him who was going out; and as he felt no objection to leave it to the PRESIDENT to make use of the whole or a part of this money, as his discretion should direct, he should vote for the bill.

Mr. CLAIBORNE said, as provision had been made for furniture for the gentleman now in office, he was inclined to vote for the fourteen thousand dollars proposed now to be granted for the same purpose to the gentleman who was to succeed him.

Mr. HENDERSON wished to give his reasons for voting against this bill. He wished to place the PRESIDENT coming into office in as comfortable circumstances as he who was going out; but it appeared to him that the sum proposed was larger than necessary for this purpose. Indeed, said Mr. H., when he read an article of the constitution touching this subject, he had his doubts with respect to the constitutionality of the proceeding. That article said, "that the PRESIDENT should receive a compensation which should neither be increased nor diminished during the period for which he should have been elected; and that he should not receive within that period any other emoluments from the United States, or any of them."

Mr. SITGREAVES believed there could be no doubt as to the constitutionality of the proposed grant of money, as the clause ran, "during the period for which he should have been elected," which would not prevent them from passing any number of acts before he went into office.

The question on the passing of the bill was then taken by yeas and nays, and stood 63 to 27, as follows:

YEAS.—Fisher Ames, Theodorus Bailey, Abraham Baldwin, Theophilus Bradbury, Daniel Buck, Dempsey Burges, Thomas Claiborne, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Nathaniel Freeman, junior, Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, John Wilkes Kittera, George Leonard, Edward Livingston, Samuel Lyman, William Lyman, James Madison, Francis Malbone, Andrew Moore, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, John Page, Josiah Parker, John Patton, Elisha R. Potter, John Read, John Richards, Samuel Sewall, John S. Sherburne, Samuel Sitgreaves, Thompson J. Skinner, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Israel Smith, William Smith, Richard Sprigg, junior, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, John E. Van

NAYS.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jesse Franklin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, Andrew Jackson, George Jackson, Aaron Kitchell, Matthew Locke, Nathaniel Macon, John Milledge, Anthony New, Alexander D. Orr, Robert Rutherford, William Stradwick, and Richard Winn.

### ***Military and Naval Appropriations.***

The House went into a Committee of the Whole on this subject, when, after some discussion respecting the price of rations, Mr. GALLATIN insisting upon seventeen cents being a sufficiently high calculation, and Mr. W. SMITH abiding by the estimate of the War Department at twenty cents; the latter was agreed upon thirty-six to thirty-four, and the pay and subsistence of the Army was settled, but which has since undergone an alteration, owing to the two companies of cavalry being added by a new bill. The sum for forage and clothing was also agreed upon, but which afterwards, of course, from the above alteration, underwent an augmentation. The hospital department being under consideration,

Mr. W. SMITH moved to fill the blank with thirty thousand dollars.

Mr. GALLATIN moved to fill it with ten thousand. He said, they had this year had a statement of the expense of the Military Establishment, by which they found that the hospital department had cost six thousand nine hundred and five dollars. It had been the uniform practice of the House to appropriate from thirty to forty thousand dollars under this head, though the expense had never exceeded seven thousand; and to apply the surplus to other purposes. He thought it wrong to appropriate four times the sum necessary, and had therefore proposed to fill the blank with ten thousand dollars, which was fifty per cent. more than had ever been expended for the purpose.

Mr. PARKER believed than ten thousand dollars would be enough to pay for physic for the Army. Indeed he believed it was generally expended in wine and luxuries by the officers, and that little of it went to the use of the subordinates.

The question for ten thousand dollars was put and carried.

The blank for the Ordnance Department was filled with forty thousand dollars; and that for the fortifications of the ports and harbors of the United States with twenty-four thousand dollars.

Mr. GALLATIN moved to fill the blank for the Quartermaster's Department, the Indian Department, the defensive protection of the frontiers, bounties, and all the contingent expenses of the War Department, with three hundred thousand dollars.

Mr. VENABLE said, if the sum necessary for each of the above items could be specified, he would rather have it so expressed than have the whole in one sum.

Mr. W. SMITH said it would come to the same thing, if the several items were voted in an aggregate sum, as they were all contingent expenses. He should move to have the blank filled with four hundred and forty-six thousand dollars.

Mr. GALLATIN observed there were two motions before the committee: one to fill the blank with four hundred and forty-six thousand dollars, the other with three hundred thousand. He would observe that one of the items in this estimate, viz., that for the fortifications of West Point, ought not to be included under this head; but, as to the other items, he would mention, in answer to what had fallen from the gentleman from Virginia (Mr. VENABLE) what was the reason which had induced the committee to put them in one sum, which was to obtain the very object he had in view in wishing to have all the items stated separately.

It would be recollected that they had had a letter from the Secretary of the Treasury, in which he said, "that the appropriations for the Military and Naval Establishments were considered as general grants of money; and, though they were to be accounted for according to law, yet it was the practice of the officers of the Treasury not to consider each appropriation as specific, but the whole as a general grant of money." This practice was making the law a mere farce, since the officers of the Treasury did not consider themselves as at all bound by the specific sums. He therefore concluded it to be proper to pass the law in such a manner as to confine the expense to the appropriation for the different items. It was said to be impossible to carry the law into execution on this principle. It was said there were a number of contingent expenses which could not be exactly ascertained, and that therefore it was necessary the officers of the Treasury should have a certain discretion given them to make use of the surplus of any item for which more than was necessary had been appropriated. He believed the uncertainty here mentioned existed, and therefore it had been concluded to be best to put the contingent articles together in one sum, in order to give bounds to the discretion of the Department.

Having given the reasons which caused the bill to be brought in in this shape, Mr. G. said he would mention the items upon which the sum he had proposed to fill up the blank was composed. For defensive protection, sixty thousand dollars; for the Quartermaster's Department, one hundred and fifty thousand dollars. This latter sum has been estimated at two hundred and fifty thousand dollars, but upon what ground he was at a loss to know. The Army would now be fixed in garrison, and would not have to march from post to post. None of the reasons given last year for this expense would now apply; and he thought it unreasonable that the same sum should be allowed for this item which was allowed at the time when they were engaged in an Indian war.

In 1789, when we had eight hundred men in garrison, the expenses of this department was	\$11,076
In 1790, he did not recollect the number of troops, but not more, he believed	45,763
In 1791	92,223
In 1792 (in the height of the Indian war)	206,510
In 1793	178,602
In 1794	263,000
In 1795	317,647

What would be the expense of 1796, could not be exactly ascertained. It appeared by the statement which they had received that upwards of two hundred and four thousand dollars had been expended. Whether there were any further demands unsettled, he could not tell. It appeared, therefore, that the expense of that Department had increased from eleven thousand to three hundred thousand dollars. This had been owing to two causes—the increase of the Army, and by the Indian war. There had also been a great loss of horses from having forage to fetch great distances.

Mr. DEARBORN could see no reason for making the appropriation so large as had been proposed by the gentleman from South Carolina. It must be recollected that the Army was in garrison, where there were barrack-houses convenient for the officers and men, and contracts had been entered into for delivering provisions at the different forts, and there would therefore be a great deduction on account of the transportation, in which seven or eight hundred horses had been used up, and the horses on hand might also be sold. Camp equipage was a heavy article of expense, but which would not be wanted whilst the troops were in garrison. These two articles would of themselves make a very considerable part of the whole item. There would also be a saving in the purchase of horses, as the cavalry made more than half the expense. He did not think more than one hundred thousand dollars could be wanted under this head, except it were wanted for making new forts or fortifications. There would now be no necessity for building officers' houses, and huts for the soldiers for winter quarters. All these circumstances considered, he thought the sum he had mentioned would be sufficient.

The question for filling the blank with four hundred and forty-six thousand was put and negatived, there being only thirteen votes in favor of it. The sense of the committee was then taken upon three hundred thousand, and carried—there being 51 votes in favor of it.

Mr. W. SMITH then moved to add to the bill, "For the repairs of the fortifications of West Point, twenty thousand dollars."

Mr. COIT inquired if there was any estimate of this item.

Mr. GALLATIN said there was no estimate respecting West Point.

Mr. W. SMITH said there was an estimate for Niagara, Oswego, Detroit, &c., which might include West Point, he proposed therefore to change the motion, and insert "Niagara, Oswego, Detroit, &c.," which would include West Point, if necessary.

Mr. GALLATIN wished the gentleman from South Carolina to say whether he had any information with respect to West Point.

Mr. W. SMITH said, he had no particular information on the subject, but as it was of importance the works there should be very complete, he thought it prudent to grant something for that object.

Mr. GALLATIN hoped the proposition would be rejected. There was no necessity for repairing the fortifications of the posts mentioned more than any other of the forts upon the Lakes. They knew nothing of them, but that they were too large for the garrisons in them; but he believed if they once begun to appropriate money for this purpose, it would become a yearly expense, And whilst they had been parsimonious with respect to the ports and harbors of the United States, having only appropriated twenty-four thousand dollars to that purpose, he could see no reason for granting twenty thousand dollars for repairing the forts of Niagara, Oswego, and Detroit, against a few Indians; as it was well known that a block-house was as good a fortification against the Indians as any other. When the regiment was raised to go and take possession of that country, they built all their forts as they went along, without any expense, except the price of a few tools. He hoped, therefore, they should not by voting for this sum, introduce a new item of expense into their annual appropriations.

Mr. W. SMITH agreed with the gentleman last up, that enough had not been appropriated for the defence of the ports and harbors of the United States; but if they had done wrong in one instance, it was no rule why they should continue to do so. He thought it very important that the forts he had mentioned should be so secured at least as that they should not go to ruin. Under this item was included West Point, which was a fort of great consequence; and he would rather forty thousand dollars were appropriated than twenty thousand for this purpose.

Mr. DEARBORN said, as far as the proposition related to Niagara, Oswego, and Detroit, he thought it improper to appropriate money for their defence. He believed it would require a year or two to know what was necessary to be done there. At Niagara, the works were large enough for six or seven thousand men, and it would become a question whether they should be reduced, or kept up as they were; at Oswego, nothing more could be necessary than a block-house. It was true, there

were considerable works there, but until it was decided what they should do with them, it would be improper to appropriate money for their repair. The same thing might be said of Detroit. He had no idea that the PRESIDENT could have information from those places of what was necessary. Whatever temporary repair might be required there, the troops themselves would be able to effect. As to West Point, he did not know any thing about it, except that it was a place of consequence; he also knew that a great deal of money had been laid out upon it. He hoped they should get into a new system with respect to the defence of our ports and harbors; and until that was done, he should be against granting any considerable sum for this purpose. If gentlemen were in possession of any information on the subject, he perhaps might be induced to vote for a small sum: but not until he knew more of the matter.

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Mr. LIVINGSTON spoke of the importance of the fort at West Point, and of the necessity of keeping it in proper repair.

Mr. COIT said, the question seemed to have taken a new turn. He presumed that West Point was not in the idea of the Secretary of War when he made the estimate upon which this bill was founded. If it had been, it would have been very improper to have begun with Oswego, and include West Point in the *et cetera*. In June, 1796, 20,000 dollars, he said, were appropriated for the repairs of this fort, and they had not been informed that it had been expended.

Mr. GALLATIN said, there had been 7,000 dollars expended at West Point; the other 13,000 dollars were not intended for that fort. The present appropriation was doubtless intended for the forts mentioned, and those in the same quarter. If any thing was wanted for West Point, a distinct proposition should come before them for that purpose.

Mr. W. SMITH observed that the gentleman last up had stated that only 7,000 dollars had been expended at West Point; that was only the amount which had been expended at the time the estimate was made; but the whole might have been since laid out, as then only 520,000 dollars of the appropriation of the Military Establishment had been expended.

Mr. GALLATIN said, that the total expenditure of the estimate alluded to was 1,280,479 dollars.

The question was put and negatived, there being only 19 votes in favor of it.

The committee then rose and had leave to sit again.

## **TUESDAY, February 28.**

### ***Algerine Captives: Ransom.***

The Secretary of State, to whom was referred the petitions of George Smith and John Robertson, who prayed for a repayment of the money which they had themselves paid for their ransom from Algerine slavery, reported that the ransom of George Smith cost \$2,426, of which Colonel Humphreys had paid \$1,526, and George Smith the remainder; that by the late return of our citizens from Algiers, the expense attending the redemption of each man was ascertained to be \$2,396, independent of the expense of the general negotiation, and allowing for small inaccuracies on account of some expenses which could not at present be ascertained. He recommends, therefore, that George Smith have paid him \$873, which, with the sum paid by Colonel Humphreys, would make about \$2,400. John Robinson paid for his own ransom \$1,518, the interest upon which came to \$516; the Secretary therefore recommends that \$2,034 be paid to him.

On motion of Mr. SWANWICK, this report was referred to a select committee, viz: MESSRS. SWANWICK, BLOUNT, COIT, SEWALL, and PARKER.

### ***General Appropriation Bill.***

The amendments from the Senate to the bill making appropriations for the support of Government for the year 1797, were taken up and agreed to, as also those to the bill laying additional duties on sundry articles of impost. The amendments which were agreed to were to add to white cotton goods, "velvets and velverets, whether printed, stained, colored, or otherwise, and all muslins and muslinets, two and a half per cent." And also a new section, enacting that an addition of 10 per cent. should be laid upon these articles when imported in ships or vessels not of the United States. The duties are to take place after the 31st of December next.

### ***Military and Naval Appropriations.***

The House again resolved itself into a Committee of the Whole on the Military and Naval Appropriations; when, the pay and subsistence of three captains in the Naval department being under consideration—

Mr. SWANWICK thought it would be necessary to have a laborer or two employed to take care of the vessels and materials.

Mr. W. SMITH said, the estimate for the captains was \$4,200; if the sum was made \$5,000, there would be sufficient for the payment of any laborers which might be necessary. Agreed to.

The blank for the payment of Military Pensions was agreed to be filled with \$96,350.

And for making good the deficiencies of the Military Establishment of 1796, \$76,312.  
Also, for the payment of the expedition of General Sevier into the Cherokee nation, \$22,816.  
The committee now rose, and had leave to sit again.

### ***Executive Veto on the Army Bill.***

The following Message, in writing, was received from the PRESIDENT OF THE UNITED STATES, containing his objections to the bill for fixing the Military Establishment:

*Gentlemen of the House of Representatives:*

Having maturely considered the bill to alter and amend an act, entitled "An act to ascertain and fix the Military Establishment of the United States," which was presented to me on the twenty-second day of this month, I now return it to the House of Representatives, in which it originated, with my objections.

*First.* If the bill passes into a law, the two companies of light dragoons will be, from that moment, *legally* out of service, though they will continue afterwards *actually* in the service; and for their services during this interval, namely, from the time of *legal* to the time of *actual* discharge, it will not be lawful to pay them, unless some future provision be made by law. Though they may be discharged at the pleasure of Congress, in justice they ought to receive their pay, not only to the time of passing the law, but at least to the time of their actual discharge.

*Secondly.* It will be inconvenient and injurious to the public to dismiss the light dragoons as soon as notice of the law can be conveyed to them, one of the companies having been lately destined to a necessary and important service.

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*Thirdly.* The companies of light dragoons consist of one hundred and twenty-six non-commissioned officers and privates, who are bound to serve as dismounted dragoons when ordered so to do. They have received, in bounties, about two thousand dollars; one of them is completely equipped, and above half of the non-commissioned officers and privates have yet to serve more than one-third of the time of their enlistment; and, besides, there will, in the course of the year, be a considerable deficiency in the complement of infantry intended to be continued. Under these circumstances, to discharge the dragoons does not seem to comport with economy.

*Fourthly.* It is generally agreed that some cavalry, either militia or regular, will be necessary; and, according to the best information I have been able to obtain, it is my opinion that the latter will be less expensive and more useful than the former in preserving peace between the frontier settlers and the Indians, and, therefore, a part of the Military Establishment should consist of cavalry.

G. WASHINGTON.

UNITED STATES, *February 28*, 1797.

On motion,

"*Resolved*, That to-morrow be assigned for the reconsideration of the said bill, in the mode prescribed by the Constitution of the United States."

The question to concur was put and carried—40 to 37.

### **WEDNESDAY, March 1.**

#### ***Military Establishment.***

Mr. GALLATIN wished the bill for fixing the Military Establishment, which had been returned by the PRESIDENT OF THE UNITED STATES, with his objections, to be taken up.

Mr. W. SMITH hoped this subject would be taken up, but before it was entered upon, he wished the Committee of the Whole to be discharged from the consideration of it, as he found, in a former instance of a similar kind, the business had been settled in the House. The committee was accordingly discharged. The House then proceeded to reconsider the bill, agreeably to the direction of the constitution. The bill was first read, and then the objections of the PRESIDENT.

The SPEAKER then read the clause in the constitution which directs the proceedings on such an occasion, and which says, that in case two-thirds of the House wherein it originated shall be in favor of passing the bill, it shall be sent to the other, and if two-thirds of that House be also in favor of it, it shall become a law. The votes of both Houses to be determined by yeas and nays.

Mr. NICHOLAS said, he meant to vote against the bill, but he did not wish to stand charged with refusing to pay the men for the time they were in service. He thought this bill was by no means liable to a charge of this kind; as it could scarcely be supposed that, at the time they were making a voluntary gift of \$100 to every officer discharged, the Legislature meant to defraud the men of their pay.

Mr. W. SMITH did not see any necessity for the observations of the gentleman from Virginia. There was nothing in the Message of the PRESIDENT which charged that House with an intention to

defraud the men of their pay. Whatever was the design of gentlemen, this was not the charge. But certain it was that this would be the result of the bill, and it would be six weeks or two months before they could be notified that the act was passed. It was the legal opinion of the Attorney General, therefore, that they would not be entitled to pay during that time.

Mr. NICHOLAS was sorry that the gentleman from South Carolina and he did not think alike on the subject; he thought the objections he had made were necessary, and he had made them for the purpose stated. He thought the PRESIDENT ought not to have doubted their willingness to have allowed the pay in question. He was of opinion the House had given some extraordinary proofs of their liberality this session; amongst other proofs of this, they had determined to appropriate money for the building of a thirty-six gun frigate, which he had caused to be built without authority. But the pay of these men was so much a point of law, that he believed the men would have been entitled to pay.

Mr. W. SMITH said, their having agreed to give each of the officers \$100, without mentioning the men, rather went against the gentleman's conclusion; because, if any thing had been intended to have been given to them, they would also have been mentioned.

Mr. WILLIAMS was sorry that some things had not been more attended to, when that bill was under consideration; and, although there would be a difficulty respecting the Brigadier General and Staff, yet he thought the objections well founded, and would vote against the passing of the bill, in order that a new one might be brought in to avoid the objections, from the demands lately made for the protection of the frontiers of Georgia and Tennessee, which amounted to upwards of \$300,000; he fully agreed with the PRESIDENT that it would be less expense to keep up the two companies of dragoons than to employ militia horse.

The yeas and nays were then taken, and stood 55 to 26.

The bill being accordingly lost, Mr. NICHOLAS moved that a committee be appointed to bring in a new bill, which being agreed to, a new bill was reported (exactly the same as the former, except an omission of the parts objected to by the PRESIDENT.) It was ordered to be engrossed for a third reading, and afterwards passed.

### ***Case of Hanging Maw.***

Mr. BLOUNT called for the order of the day on the report of the Committee of Claims on the petition of the widow of the late Scollacuttaw, or Hanging Maw. The House accordingly went into a committee thereon, when the report was read, as follows:

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"That the complaints against the conduct of one John Beard, and a number of armed men, who, she states, in the year one thousand seven hundred and ninety-three, contrary to law and the good faith of Government, attacked the dwelling-house of the petitioner and husband, killed and wounded a number of well-disposed Indians; burnt, and destroyed, and carried away their property, and wounded the petitioner. She now prays that some provision may be made for her.

"After examining the statement made by the petitioner, and the facts upon which she rests her present application, the committee have found some difficulty in deciding what measures would be most advisable for the House to adopt.

"Previous to the attack on the Hanging Maw, the frontier settlers of Tennessee and the Indians in that quarter had been guilty of mutual acts of aggression and hostility. A party of the Indians had killed some settlers; their trail was discovered, conducting across the Tennessee—this circumstance induced a belief in their pursuers that the Hanging Maw had been concerned in that business, and occasioned his being wounded, and the misfortunes complained of by his widow. The general opinion, however, represents the Hanging Maw as having been uniformly friendly to the settlers; as vigilant to apprise them of the approach of banditti; and constant in his exertions, on all occasions, to compose difficulties between them and his nation; and, withal, as possessing considerable influence over the Indians. The same disposition is also attributed to his widow, the present petitioner; who, instead of exciting her people to acts of retaliation, has abated nothing in her friendship to the white people.

"All these circumstances seem to countenance, if not to require for her a pension from the Government, or some other relief from the Legislature. Such a provision might also be considered as extending its influence beyond the particular object; or, as an inciting cause to other Indians to pursue a similar line of conduct, under circumstances alike cruel and distressing, should they happen.

"But, on the other hand, it is to be considered that there are citizens on the frontiers who have suffered injuries as cruel, and deprivations as severe by the Indians; and who have been thereby left in situations of distress that would equally call for assistance from the Legislature. Questions arise whether both descriptions of sufferers ought not to be provided for? Whether the abilities of Government would be competent to meet all possible claims of this nature? And whether help can be extended by law to the one, and consistently refused to the other?

"It may be said that those who settle on the frontiers voluntarily assume all the risks and dangers attached to that position; and, therefore can have no just claim upon the Government for consequences resulting from their choice; whilst, on the

contrary, policy requires that the minds of the Indians, who may be roused to hostility by acts of the settlers, should be quieted by small pecuniary interpositions.

"Under these views of the subject, the committee have hesitated what report to make; but, upon the whole, as the authority vested in the Executive Department is competent to meet this claim; and should the petitioner, from her sufferings and her attachment to the United States, appear to the Executive to be entitled to any annual relief, as it may be afforded out of the appropriations for contingent expenses in the Indian Department, without any interference of the Legislature, and as this mode will probably involve the fewest difficulties, the committee think she should apply to that department; and that the prayer of her petition ought not to be granted."<sup>[12]</sup>

The committee reported their agreement with the resolution reported from the Committee of Claims.

The question was taken, that the House do agree with the Committee of the whole House in their agreement to the said report, and resolved in the affirmative.

## THURSDAY, March 2.

The bill for the relief of American seamen was read the third time and passed.

### *Military Appropriations.*

On the motion of Mr. W. SMITH, the House went into a committee of the Whole on the bill making appropriation for the Military Establishment, when the following items were agreed to without debate:

For the payment of the army,	\$256,450
For the subsistence of the officers,	47,395
For the subsistence of the non-commissioned officers and privates,	245,283
For forage,	14,904
For clothing,	83,050

Mr. W. SMITH then proposed to insert a new item, in consequence of the bill just passed, "For the purchase of horses and the equipment of the cavalry, \$16,085."

Mr. GALLATIN said, the items which had been agreed to were upon the ground of an increase of 126 dragoons which was not in the former bill. The item now under consideration went to provide horses and equipments for an additional company of cavalry. It appeared that this company was heretofore without either, so that they must have been employed as dismounted dragoons; and if they now appropriated the sum before them, they would, in fact, add a company of horse to the establishment. He believed it to be the general opinion that they had cavalry sufficient at present; indeed, it was the opinion of a large majority of that House that none were necessary; but if they did appropriate for any, he thought they ought not to go beyond the present establishment.

Mr. W. SMITH said, if they refused to make the appropriation under consideration, they declared that one of the two companies of cavalry should act as infantry. By the bill passed yesterday, it was left altogether to the option of the PRESIDENT to employ them either as cavalry or infantry: but if this appropriation was withheld, he would be under the necessity of employing them as infantry only, and this House would now exercise a discretion which only yesterday they had vested in the Executive.

It would be observed, that, in the message of the PRESIDENT, he had fully stated the reasons why dragoons would be requisite. The business upon which one of the companies was at present employed was to escort the Commissioners employed in running the boundary lines betwixt the territory of the United States and the Indians; the other was indispensable for the protection of the frontiers.

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What, Mr. S. asked, would be the consequence of refusing this appropriation? One of the companies of dragoons would be obliged to act as infantry, and Government would be compelled to employ militia-horse at a great expense. If this was economy, he was mistaken in his ideas of economy. The sum was conformable to the estimate which he had received from the War Office.

Mr. HARTLEY was in favor of the appropriation, that the PRESIDENT might be at full liberty to employ the troops on foot or on horse-back, according as the service might require.

Mr. NICHOLAS thought, while they were making appropriations, this subject might as well be included. If these men were to be kept, they ought to be properly equipped. He said it was the opinion of the PRESIDENT and the Secretary of War that cavalry was necessary, and therefore he had concluded it would be proper, and wished them to be kept up, so as to be called into service whenever necessary.

Mr. MILLEDGE thought there was great need of cavalry; it would be an object of policy, as, by information he had received from the Governor of Georgia, (which he had in his hand, and which was corroborated by a late Governor,) horse were absolutely necessary—he thought three companies—on the frontier. He therefore was in favor of the appropriation.



Mr. VARNUM had no doubt but the gentleman from Georgia, and every gentleman in the House, would be glad to have horse and infantry too kept up in their State: every part would be glad to have the public money expended upon it. He could not see why a body of cavalry should be kept up in a time of peace. He thought the Legislature had as good a right to judge as any person, notwithstanding the authorities produced to sanction the appropriation. Mr. V. had no doubt, if this was granted, that application would soon be made again for a similar purpose. He hoped this appropriation would not take place; it would be a small saving, and might as well be made, as there was so much want of it. He could have wished the troops reduced to two regiments, which he thought quite sufficient for a Peace Establishment. He hoped the PRESIDENT's ideas on the subject would not obtain to govern the decisions of the House, as we have the power, said he, to withhold appropriations; and what gentlemen who were locally concerned should say, he could not be guided by; as soldiers would consume their produce and spend money amongst them, consequently they were interested.

Mr. CRAIK really lamented that the gentleman had not been in the House yesterday, at the time the subject was more under consideration: he might then have inveighed against the PRESIDENT. The observations might have come with more propriety, if they had been made before the bill passed, and when under discussion; but, after a law has passed the proper authorities—after it has been resolved to have these troops of horse—to say, we will not appropriate money to carry it into effect, is strange conduct. If the determination of the gentleman was to oppose the bill, he should have used every means to that purpose, and if not effectual, at least to suffer others to enjoy their will—especially a majority. For the sake of consistency, he hoped the gentleman would withdraw his opposition, and not in this side-way try to defeat the operation of a bill which has passed. The cavalry were voted because they were supposed to be necessary, and now a gentleman comes forward, endeavoring to excite the jealousy of the House on the Executive's meddling with the Military Establishment. Mr. C. said he was pleased that the PRESIDENT had refused it, if it was only to convince some gentlemen that he had power to refuse that or any other bill. [Here Mr. DENT asked the gentleman if he was in order.] Mr. CRAIK said he only wished to prove the inconsistency of the member's conduct. He thought the House should not betray a want of consistency. He believed, from the statement of the member from Georgia, and the reasons of the PRESIDENT, that horse were necessary, and he therefore should wish the appropriation to be passed.

Mr. KITCHELL said, gentlemen seemed to be mistaken; they were continually alluding to the law passed yesterday. There was not a word about two troops of horse yesterday. All we then said, was, that we would not say there should not be two troops of horse; the Message of the PRESIDENT did not say that two troops should be mounted, nor do I say, said Mr. K., that horse are not necessary; I think some are necessary; but the inquiry seemed to be, now, whether the House were to vote for more.

Mr. W. SMITH said, the gentleman's observations were very extraordinary; he surely could not have attended to the subject, to say that the House had not passed the law authorizing two troops of horse. We have a law in force, said he, to ascertain and fix the Military Establishment, in which we authorize the PRESIDENT to employ the two troops of dragoons, to serve either on horse or foot at his discretion. The bill we sent up yesterday does not repeal that law, and yet gentlemen would now come forward to oppose the appropriation, and determine they shall act on foot. He could not think with what propriety the restriction could be made as the gentleman from Massachusetts wishes, nor could he think how the gentleman from Jersey had attended. Should we now say they should be at our direction, and that we would not grant money without? This would be strange conduct—an assumption of power which he hoped the House would never arrogate.

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Mr. KITCHELL said his meaning was, that the horse were not established yesterday, but before.

Mr. HARTLEY said it appeared, from good testimony, that the troops were requisite to save the people on the frontiers from the depredations of the Indians; he thought, therefore, that they having been established before, the House were bound to make the appropriation to give effect, or show the great inconsistency.

Mr. NICHOLAS said it was not his intention to vote for these men at all; but if they must have them, perhaps it would be most economical to equip them. With respect to their power of withholding the appropriation, he had no doubt; and though they had yesterday passed a law establishing two companies of cavalry, it was in the power of that House, of the Senate, or of the PRESIDENT, to refuse an appropriation. This was the sense of the constitution. When the bill came before the House, he should give his negative to the additional horse; for, if they were always to keep up the same number of men, whether in war or peace, except two-thirds of both Houses were found to oppose the will of the PRESIDENT, they might bid adieu to all restraint upon Executive power, and count upon a military Government, if ever an Executive should be found whose will it should be to make it so. If these were to be kept up, he would still say the House had better go to \$100,000 expense to mount them on horse-back.

Mr. VARNUM said it was observed by gentlemen that those troops were not mounted; if so, there must have been a very lavish waste of money. However that might be, gentlemen who state this matter ought to state it fairly. They ought not to say that two companies of cavalry were yesterday voted. No, they were part of the old War Establishment. It was true, the House had not the power to repeal the law; but one thing was in their power, and that they ought to do, if they see this part of the standing army necessary. The constitution returns the power to act on it once in every two years to each branch of the Legislature. The House, he thought, had good right to exercise their own opinion on the necessity of mounting these men. It was not in the power of one

branch to repeal the law which keeps these men, but we ought to consider whether they are to be put in the same situation as in time of war. Mr. V. said he discharged his duty in voting against this appropriation. The House had a right to judge, and it was not in the power of the PRESIDENT to act for them.

Mr. HEATH said that the subject had been fully discussed, and therefore he should only observe, that, from the authority which had recommended the mounting of these cavalry, he should vote for the appropriation.

Mr. MILLEDGE repeated his arguments on the local situation of the country, and asserted the absolute necessity of the troops.

The motion was put and carried—there being 56 in favor of it.

### ***Naval Appropriations.***

Mr. W. SMITH then proposed to add \$172,000 for finishing the frigates United States, Constitution, and Constellation.

Mr. NICHOLAS said he should be against appropriating so large a sum for this purpose. It was the sense of the House, on a former occasion, that it would be proper to appropriate such a sum as should put them in such a situation as to secure them from injury, but to stop short of making them fit for sea, that the expense of manning them might be avoided.

Mr. SWANWICK said a new view of the subject seemed to be brought forward at present. Before, they had determined to finish the frigates; but now, they were not to finish them, lest they should be manned, but to finish them in part only. A gentleman yesterday said, when speaking on the subject of the PRESIDENT'S Message, that he could not suppose they would have refused to pay the soldiers, though there might be some deficiency in the expression of the act; and might he not suppose, said Mr. S., if the frigates were so nearly finished, he might go on to finish them, and trust to the Legislature to furnish the money? These frigates, he said, were a very extraordinary concern. It seemed as if it was only when it was to be made a present of to Algiers, that a frigate could be finished, and not when it was for the protection of our own commerce. He trusted, however, that there would not be a majority found in that House who would vote against finishing the frigates: as to manning them, that would remain for a future consideration.

Mr. PARKER said, it would require all the money which had been named for finishing the frigates, without rigging, though there would be a considerable quantity of materials left on hand. There need be no apprehension of their being manned, whilst seamen's wages remained at the price they were, because men could not be got on the terms stipulated in the law for this purpose. If a smaller sum than was mentioned were to be granted, they might as well give nothing.

Mr. SITGREAVES supposed the blank was now proposed to be filled with the same sum which had been agreed upon on a former occasion. If this were the case, it ought to dissipate the fears of the gentleman from Virginia, (Mr. NICHOLAS,) as it was well known that the sum was predicated upon a supposition that the frigates were not to be manned. If they were to be manned, a further appropriation would certainly be necessary.

Mr. NICHOLAS said, it appeared to him that if all gentlemen were agreed that this business should go no further than the building of the frigates, they could have no hesitation to leave undone some of the internal finishing work of the vessels; if they did not wish to put them into such a situation as that they might force them into service upon the spur of an alarm, they could have no objection to their being left in such a situation as to be perfectly secure, but not finished fit for sea.

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Mr. SITGREAVES said this subject had heretofore undergone a very full discussion. A motion was then made merely to finish the hulls, which was negatived. It was then said that contracts were made for all the materials, and that except the frigates were finished, the engagements which had been entered into could not be fulfilled. But there was another security against the danger apprehended. They had lately come to a determination to make all appropriations specific and particular. What was the language of the present appropriation? It was for finishing the frigates, not for manning them. If it had been said to be for carrying into effect the law for the Naval Establishment, there might have been some little ground for apprehension; but, as it now stood, the Executive could not proceed to man the vessels.

Mr. NICHOLAS said, when they voted the sum now asked for finishing the frigates, the expenditure was accompanied by a law to repeal the manning clause of the former act. He had made inquiries respecting contracts, and found the money in hand was equal to the fulfilment of them; if there had been any others, he supposed they should have heard of them. He again said there were many ornamental parts of the vessels which might be as well thrown upon the expense of next year as of this.

Mr. SWANWICK said, if Government could have had foresight sufficient to have known that there would have been any objections made to the finishing of the frigates, they would certainly not have entered into any contracts to that extent, but they could not possibly do this. He wished, if gentlemen were determined the frigates should not be made use of, that they would say at once they should be sold on the stocks. With respect to manning of them from the money proposed to be appropriated, that was impossible, and he saw no reason for making the business *doubly sure* by any other precaution.

Mr. HOLLAND said it was, with great propriety, intended by many members in the House to keep

the frigates in such a state as to prevent their being manned. If we appropriate to finish them, said he, we shall be exposed to all the difficulties depicted by the gentleman from Pennsylvania; for some way would be devised to procure and pay men, if the House put it in the power of the Executive to do it: therefore he hoped, to avoid all that trouble and expense, they would not vote to finish them. For what purpose, said he, should they be finished, unless it were intended to man them? To avoid every danger of that kind, he should vote against the sum proposed.

Mr. HARTLEY said, that last year the six frigates which had been before voted for were reduced to three, with intent to complete them. Was it not probable then, he would ask, that the PRESIDENT would proceed to complete those frigates, according to the power given him? Was it not to be supposed that contracts were entered into for that purpose? No person could suppose but contracts were made. Then certainly the House ought not to expose the Executive to the ridiculous situation of receding from his contracts! They would not be finished before next session, and therefore no danger of equipping could be apprehended. It may be necessary to use them, but at any rate it would be running no risk to have them finished, as they could not be manned by this appropriation.

Mr. GALLATIN said, there seemed to be involved in the present consideration the question whether or not we should have a Navy. As to himself, he should vote against the present appropriation, because if the frigates were completely finished, he should fear they would get to sea. When they had on a former occasion consented to finish them, it was under the condition of the law for manning being repealed; but they now stood upon new ground. Mr. G. said he had been charged with inconsistency of opinion, from having before said that he thought the PRESIDENT would not be authorized to proceed in the manning of the vessels under the present law, whilst he was now apprehensive that he might do so. He wished to be on sure ground. He did not know but the PRESIDENT might put a different construction upon the law from him. Indeed, from the experience they had had of Presidential discretion, they need not be surprised if the vessels were sent to sea, though no appropriation was made for the purpose, should the PRESIDENT suppose there was any plea for doing so. As a proof of this power having been exercised heretofore, Mr. G. referred to the Western insurrection. In that case, he said, no appropriation was made for the expense; but the law authorizes the PRESIDENT to call out the militia when he shall see occasion to do so; he called them out, and got money from the Treasury. Indeed, the building of a frigate for Algiers, without any authority, and the pledging of the faith of the nation to pay the expense of the law-suits of our citizens in London, were strong proofs of what the Executive could do.

Mr. G. said he did not mean to bring into view any arguments relative to the propriety of establishing a Navy in this country. He should vote against the present motion, because he did not wish to see the frigates at sea, and because he conceived a Navy to be prejudicial to the true interests of this country. Something had been said about contracts, but he did not believe any existed. They had last year been told the same thing. Any person reading the statements which had been furnished to them, would perceive that the business was not done by any contract, but that men were employed by Government, and regular wages paid to them. The frigate which had been built for Algiers had been built by contract, they had an estimate of it at so much a ton, but this was not the case with respect to any other of the frigates.

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Mr. W. SMITH did not wish to go into a long debate on the subject, when they had so much business before them, in order to show whether it was proper for this country to have a Navy or not; the only question now was, whether they ought to appropriate money for finishing the three frigates. If they did not do it, all the money which had been already expended would probably be lost. The only objection to the doing of this seemed to arise from a fear that the vessels would be manned, though when this subject was before them, the other day, the gentleman from Pennsylvania (Mr. GALLATIN) moved to postpone the bill relative to the repealing or suspending the law for manning the vessels till next session, from an opinion that, by the present law, the PRESIDENT was not authorized to man them. That gentleman seemed now, however, in contradiction to himself, to fear the PRESIDENT would put a different construction upon the law: if he did not believe the PRESIDENT would violate the law, he could not account for his refusing now to vote the money which was merely necessary to finish the vessels. Mr. S. read an extract from the report of the Secretary of War, to show the forward state in which the vessels were, and added, that they were bound in duty to finish them, were it only to prevent the loss of the money already expended upon them.

Mr. DEARBORN observed, that if he was convinced, from the documents which had been laid before them, that the sum now asked for was necessary merely to finish the frigates, he should not hesitate to vote for it; but it was not a little extraordinary that the gentlemen on that committee (not even the Chairman, who seemed to have the business so much at heart) could not say whether this sum was necessary for finishing and rigging, or finishing without rigging, or for finishing, rigging, and manning. The frigate building in this city, the captain had told him, was calculated in point of size to carry 62 guns, instead of 44; which was one of the reasons they had cost so much more than they had been estimated at. Mr. D. said, he suspected that the sum proposed would not only be sufficient to finish the hulls, but to rig and fit the vessels for sea, and until he had more satisfaction on the subject he could not consent to give his vote for it.

Mr. KITTEBA observed, that gentlemen first said, that under the present law, the PRESIDENT could not proceed to man and send the vessels to sea, but now they were apprehensive this might be done, though no appropriation was made for the purpose. This, he thought, somewhat inconsistent; but he believed whilst thirty dollars a month was given to seamen by merchants, and their law only authorized eleven to be given, there was not much to be feared on this head.

Mr. AMES said, that gentlemen opposed to the finishing of the frigates, seemed to be also opposed

to all ideas of this country ever becoming a naval power; the necessity of this, he was persuaded, would ere long appear. It was not to be supposed that a nation whose commerce was greater than that of any other, except Great Britain, should go on long without a naval protection; and he believed the more strenuous the opposition shown against this measure, the sooner it would be accomplished; he was not therefore displeased to see the present violent opposition to every thing which looked towards this object.

It was not enough, Mr. A. said, for gentlemen to discourage the building of ships, they would also discredit the administration of Government; and nothing was more natural than that those who thought so ill of it themselves should endeavor to spread those opinions. This was done continually. With respect to the building of the frigates, he thought it was a wise step; and as to the extra expense and delay which had attended the business, he believed, gentlemen might take a share of the blame upon themselves, on account of the versatility which had been shown upon the occasion in this day agreeing upon one thing, and that upon another. It was true, that another cause of extra expense was owing to a resolution which had been taken to make the ships much larger than was contemplated by the House; the vessel building here, he believed, was nearly 1,600 tons. He was glad that this alteration of plan had been adopted; not because more money would be expended on this account; not because contrary to the direction of the Legislature, but because true wisdom required it; they would now be an overmatch for any frigate, or any vessel which the Algerines could send out against them. These, he believed, were the views of the Executive in having them built of the size they were. The number of the frigates agreed to be finished had been reduced to three; and these they last session passed a law to finish. But what was now to be done? It was said they should not be finished. Who said this? Did the people? did the Government say it? No; that House alone said it: so that that House were about to usurp the supreme authority. We are the Government, we are the people, we are every thing.

But, if there be a law which says that these three frigates should be built and equipped for sea, was it not necessary, before it was concluded that they should not be so built and equipped, that this law should be repealed by all the branches of the Legislature? No, say gentlemen, we can appropriate or not, according to our sovereign will and pleasure. If they possessed the power to nullify what was enacted by all the three branches of Government, it was greatly to be lamented. But if they could appropriate according to their will, they were bound to do it also according to their consciences too. It was not only a weapon, but a shield, which it was their duty to use with great caution, and according to law; for, if they were to use it contrarily, it would be to make that House the supreme power, it would be to usurp the supreme authority.

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Mr. COIT believed the only real question before them was, what sum they would appropriate for this object; he wished the mover would consent to leave the item blank.

Mr. W. SMITH had no objection to its being left blank.

Mr. VENABLE said, if this was a mere question of expense, it was very extraordinary that it should have called forth such a philippic from the gentleman from Massachusetts, (Mr. AMES,) who had charged the House with arrogating to itself all the powers of Government; as being omnipotent. Upon what ground could he found such charges? If it were a question of expense merely, there could certainly be no ground for such charges; but if it were to be considered as a question of power, if they were to be told they dared not to withhold the appropriation in question, here he would intrench himself as a Representative of the people; he had a right, as a member of that House, to vote against the expense which he thought improper, and he would exercise that right. Every branch of Government had the same right, and he wished them to exercise it. And he would not be told, when he was about to exercise this right, that he was arrogating to himself all the powers of Government. He was determined to exercise his discretion on every question which came before him for decision, and he would vote against this expense.

Mr. NICHOLAS said, the gentleman from Massachusetts (Mr. AMES) seldom spoke without casting some denunciation against that House. He had, however, allowed that the PRESIDENT had done, with respect to this fleet, all that any gentleman had charged him with doing; he had even put the case stronger than any other person had put it; for he had said that the Executive had determined to build the vessels of a larger size than had been contemplated by the Legislature, in order to be an overmatch for any other frigate. All this, said Mr. N., may be right, and the approbation he gave this conduct, was a proof the gentleman thought so; all he had to say was, that it was not legal; it might be patriotic, and be done with an intention to serve the country; the PRESIDENT might understand the interests of the country better than they; but it was a conduct which would not meet with the same approbation from him that it met with from the gentleman from Massachusetts. That gentleman had also said that a law imposed a duty upon the House to find the means for carrying it into effect. Were they not, then, to be called upon for money to man the frigates? He asked those gentlemen whether the PRESIDENT had not a right to man the frigates, and if so, whether they should not be *obliged* to find the money?

The powers of this House to control appropriations, had, however, already been settled. It was, indeed, an absurdity to call a body a Legislature, and at the same time deny them a control over the public purse; if this were not so, where would be the use of going through the forms of that House with a money bill? The Executive might as well draw upon the Treasury at once for whatever sums he might stand in need of. A doctrine like this would be scouted even in despotic countries.

And what was all this power that so much alarmed the gentleman from Massachusetts? It was merely a negative power to refuse to do what they thought it would be mischievous to do. Mr. N. said there was a very fashionable doctrine of throwing all power into the hands of the Executive.

If there were to be extremes, however, he believed an excess of power would at least be as safe in their hands as in those of the Executive; and if this were his opinion, and the ground upon which he acted, the gentleman from Massachusetts never failed to take an opposite direction. He never thought any Executive power too great.

Mr. PARKER remarked, that it had been said the frigates would carry 62 guns; it might have been possible to have made them so, but they were no more than a large sized 44-gun frigate. They might be a little larger than any other of that number of guns, but not so much. It was true they were not at first contemplated to be so large, but strong reasons were offered for making them of the present size; the expense was not increased by the increase of size, in proportion to their usefulness. He therefore himself approved of what the PRESIDENT had done; and, if he had had the management of the business, he should have done the same. It had been doubted whether the sum proposed to be granted would not only finish, but equip and man the vessels. If the gentleman who had these doubts would refer to the report which had been made on the subject, he would find that \$220,000 would be required for that purpose; the \$172,000 proposed would barely make them ready for sea in other respects.

The gentleman from Pennsylvania, (Mr. GALLATIN,) who was generally very correct in his statements, had supposed that if the frigates were finished, the PRESIDENT might go on to man them without consulting the Legislature upon the occasion; and, to show the possibility of doing this, he had alluded to his having built a frigate for the Algerines without the approbation of Congress. He lamented the situation in which we stood with that country, but he believed the building of the frigate was necessary. The Western insurrection, and the law-suits in London had also been named, which he should not stop to notice.

In answer to the gentleman from Pennsylvania, he would say, that if the PRESIDENT could man the vessels and send them to sea independent of Congress, he might also finish them without their aid; but he did not believe he would place himself in the same situation with respect to them as if he had to do with a foreign nation. In relation to foreign nations, he had great power; but, if he went beyond his power with respect to internal regulations, he would be liable to impeachment, and he would be one of the first to promote an impeachment, were such to be his conduct.

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Mr. AMES said, he understood the gentleman from Virginia (Mr. NICHOLAS) to say, that the conduct of the Executive was illegal; but certainly if a frigate was estimated to cost \$12,000 and it cost \$15,000, the expenditure of the additional \$3,000 was not illegal.

Mr. NICHOLAS said, he had made use of the gentleman's own words with respect to the change in the plan of building the frigates, which he had called illegal.

Mr. AMES said, as to the size of the vessels, that was Executive business. The gentleman from Virginia (Mr. VENABLE) seemed to take the observation which he had made with a degree of sensibility perfectly natural, because it went to touch the power which he had claimed as a member of that House. The gentleman said, "Here I intrench myself behind my privileges." Nothing was said about the public good; all was self.

And was it to be considered, he asked, that they enjoyed the powers committed to them in their own right, as barons of empire, as sovereign despots? Or was the power placed in them to be exercised like other duties, according to justice and propriety? He believed no one would deny that the latter was the truth.

How did the matter stand? They had attempted to repeal a law, but another branch of the Legislature had refused to accede to the repeal; of course it could not be effected. Were they then to act as if the law had been repealed? Yes, say gentlemen, we will refuse to appropriate the money since we think the thing unnecessary. He hoped, however, the day would soon come (as melancholy would be the period until it did arrive) when this power of refusing an appropriation to carry an existing law into effect, should no longer be countenanced by a majority of that House.

Mr. VENABLE was of opinion, that if the gentleman from Massachusetts had only the public good in view, which he had spoken of, he could have had no inducement to have gone into the arguments which he had introduced on this occasion. He could assure that gentleman that he felt himself as strongly bound to consider the public good in all his conduct as he could be. He believed no instance could be named in which he had not consulted that interest. As to what was, or was not, calculated for the public good, he must be left at liberty to judge for himself. But the gentleman had not put the business on this ground, but because gentlemen differed in opinion from others, they were charged with assuming absolute authority, with principles of despotism, overturning the Government, &c.

Mr. V. said, it was his opinion, that in all laws which came before that House, every member had a full right to say yea or nay, for which they were not accountable to that gentleman, or to any other. The other branches of Government had also the same power. Indeed, the other House had exercised this right in negating the repeal of the law relative to the manning of these vessels. He trusted both Houses would always continue to assert their right thus to use their discretion and privilege.

Mr. AMES said, he had not charged that House with usurping power, or breaking down the other branches of Government; nor did he say they had not a discretion; but that their discretion ought to be regulated by duty.

Mr. SWANWICK said, amidst all the foreign objections which had been urged against this appropriation, he wished the act passed last session to be referred to. [Mr. S. read an extract

from it.] Here, in April last, said he, it is provided that the frigates shall be finished, and yet now gentlemen wished the House to come to a conclusion only to half finish them. What, he asked, would the world think of such a versatility of conduct?

Mr. KITCHELL thought, if they meant to get through the business which lay before them, it was time they disposed of this question. He thought the debate upon it had been sufficiently long.

Mr. BRENT said, when this subject first came before the committee, he had determined to give the sum necessary to complete them; nor had he ever wavered on the subject, until he heard the ground which had been taken by the gentleman from Massachusetts, (Mr. AMES.) He did most feelingly participate in the sentiments expressed by his colleague (Mr. VENABLE) on the occasion. It was really difficult to know what was the amount of his doctrines. In the first instance, he understood the gentleman to rise for two purposes, viz: to justify the Executive from certain charges which had been brought against him, and to show the obligation which the House lay under to grant the money.

In the first place, the gentleman said the Executive had been charged with violating the law; and, when he went into the subject, he understood him to say, as his colleague understood him, that the Executive had changed the plan; he understood him to say, that though Congress had ordered 44-gun frigates, he had ordered 74's, which remark he concluded by expressing his approbation of the PRESIDENT'S conduct. If he admitted that the Executive had violated the law, and yet felicitated him upon having done so, he might enjoy his pleasure, he would not participate with him.

With respect to the second part of his observations, as to the absolute necessity under which every member lay to vote for the sum required for finishing the frigates, because the building of them was directed by law, this was a most important point. He thought this involved one of the most valuable principles which that House possessed, and which should never be lost sight of, viz: the right of every member to exercise his discretion upon every question, appropriations as well as others, which came before him. Did not the gentleman know that the most solemn decision had taken place last session on this subject, by a large majority? Indeed, said he, this sentiment was so ingrafted in the constitution that the House could not divest themselves of it; for the gentleman to say they did not possess it, was to make a dead letter of their privileges. There could be no doubt on the subject; and it was a sacred and essential principle which would go further to preserve our liberties than any other which they possessed. He trusted, therefore, they should guard it with special care.

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Mr. GALLATIN said, he did not mean to follow the gentleman from Massachusetts in what he had said on this subject, because he had not felt the force of what he had advanced, nor very well understood what he meant. Both his meaning and his motive for bringing this subject before them to-day were to him mysterious. He had brought before them the Treaty question anew, and it would be recollected what were the feelings of the House on that occasion; but he could see no relation which it bore to the present question; and though a number of members in that House had asserted that they were bound to appropriate money to carry a treaty into effect, he did not believe they were ready to say the same with respect to laws.

The gentleman from Massachusetts had said, that if they put a meaning upon the constitution in this respect different from him, that they arrogated the supreme power to themselves. Did not he know that the doctrine applied to the Senate as well as to that House? and did he not see that that would be a check upon the abuse of it in either House, since it was a weapon which both could use?

The gentleman had said they were bound to obey the law. Bound to obey what law? The law for authorizing the building of the three frigates? He did not understand how this law was to bind them. This was a mere administrative law, which did not extend to the citizens of the United States, but gave power to the PRESIDENT to do a certain act; therefore, as citizens, they had nothing to do with that law, except they were to obey it by appropriating the money necessary to carry it into effect. Yet the gentleman allowed there might be cases in which it would be right to use discretion in the appropriation of money. For his part, he did not understand the being bound and not bound at the same time; to have discretion and no discretion. He wished either that the one or the other opinion might be adopted; and that they might be told that they had, or that they had not, a right to exercise discretion in the appropriation of money. If this exercise were to be allowed in any case, why could it not be allowed in the present? He wondered, therefore, that gentlemen in favor of this motion should have touched upon this ground. He agreed with the gentleman that they had this discretion, and that it ought to be used with caution, and not upon trifling occasions. But he conceived this to be one of those occasions in which it was necessary for those opposed to a Naval Establishment, to vote against this appropriation. He meant against the appropriation in its extent. It was because he considered a Naval Establishment as highly injurious to the interests of this country, he should vote against every measure which had a tendency to produce it. That gentleman, and others who thought differently, would vote accordingly.

Mr. G. moved an amendment, viz: that before the word "frigates," to add "the hulls of." On the question, ayes 45, noes 44—the Chairman giving his vote against the amendment, it was not carried. It was then put in the original form, to finish the frigates, the sum of — dollars, and carried—ayes 54.

The question on the blank being filled with \$172,000 was then put, and carried—ayes 47.

Mr. GALLATIN moved to add an item to pay the bounty of one hundred dollars which they had

agreed should be paid to every officer discharged from the military service in consequence of the regulations which had taken place in the establishment.

This item was filled up with three thousand dollars.

Mr. GALLATIN moved to add the following words: "which several sums shall be solely applied to the objects for which they are respectively appropriated."

Mr. W. SMITH wished, as much as the gentleman from Pennsylvania, to confine the expenditure to the sums appropriated; but the provision for some objects might fall short, while others might have a surplus, which he thought ought to be made use of to supply deficiencies in cases of emergency. Ever since the establishment of the present Government, the whole appropriation for the Military Establishment had been considered as an aggregate fund out of which any of the objects of that establishment might be paid for; but the expense of each object was now to be confined to the specific appropriation. He was afraid, however well this might look in theory, it would be found very mischievous in practice. He wished the gentleman would amend his proposition by adding, "so far as may be consistent with public exigency;" this would restrict the expenditures, except in unforeseen cases of emergency, to provide for which some latitude of discretion ought to be left to the Executive.

Mr. SITGREAVES did not see the necessity or propriety of the amendment of his colleague, when the House had distributed the appropriations amongst the different objects; as the amendment, he conceived, meant nothing more than the department should not expend any more than the sum appropriated for the different items, which they had no right to do if there were no amendment. Heretofore, when appropriations were made in a mass, the Secretary of War did not feel himself bound to govern himself by the estimate which he had given in, but by particularizing the different items, the former evil was corrected.

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Mr. GALLATIN said, if the fact was exactly as it had been stated by his colleague, his amendment might be unnecessary, but the Treasury Department had not acted upon the principle which he had stated. They had, notwithstanding the distribution of the appropriation, thought themselves at liberty to take the money from an item where there was a surplus, and apply it to another, where it was wanted. And when this was objected to, as taking from the Legislature their appropriating power, they answered that the Legislature had entered so much into detail that they could not attend to their directions. They had, last session, made the appropriations more specific than at present, yet the Secretary of the Treasury, in a letter written to the House during this session, said, "that it was well known to have been a rule since the establishment of the Government, that the appropriations for the Military Establishment were considered as general grants of money, liable to be issued to any of the objects included under that department." Therefore, unless this amendment was introduced, it would leave the power as before. In order to make the business more easy, all the contingent expenses were appropriated in one sum.

The object of this amendment, said Mr. G., was that no part of the pay of the Army should go to the Quartermaster's Department, &c., and that none of them should go to the building or equipping the frigates; but if this were not the case, money might be found to get the frigates to sea from the appropriations for the Military Department, if the PRESIDENT should think it necessary so to apply it. As to the amendment, it would do away the intention of it altogether.

Mr. HARPER was against the amendment. He thought the Department ought to be at liberty, in case of an appropriation proving deficient, to have recourse to other funds where there might be a surplus, and as none would be taken, except where there was a surplus, he could see no objection to this being allowed. Indeed, for want of such a privilege very serious inconveniences might arise to the service, in case of accident or unforeseen events.

Mr. GALLATIN said, the law did not operate in the manner which the gentleman last up supposed. They had lately voted a sum of forty thousand dollars to make good a deficiency of last year, which had been used for some other purpose; in consequence the deficiency fell upon the pay of the Army, although that could not increase, because the number of men was never increased; it might be less, as the nominal, not the actual number of men was appropriated for.

Mr. KITTERA thought the amendment a bad one. Suppose, said he, a boat should be upset with tents in the lake, or a magazine blown up, the losses could not be repaired, because, though there might be surplus sums in the Treasury from other items in the establishment, yet, if this amendment prevailed, they could not be touched. He thought this would be the effect; he was against innovations.

The amendment was put and carried, there being fifty-four votes in favor of it.

The committee then rose, and the House took up the amendments.

And then the main question, "to finish the frigates —— dollars," was taken by yeas and nays, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, Theophilus Bradbury, Richard Brent, Daniel Buck, Dempsey Burges, Joshua Coit, William Cooper, William Craik, Samuel W. Dana, James Davenport, Henry Dearborn, George Dent, George Ege, William Findlay, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William B. Grove, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Heath, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, Alexander D. Orr, Josiah Parker, Elisha R. Potter, John Read, Samuel

Sewall, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John A. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, and John Williams.

NAYS.—Theodorus Bailey, David Bard, Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, James Holland, Andrew Jackson, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Patton, John Richards, Israel Smith, Richard Sprigg, jr., William Strudwick, and Abraham Venable.

The question to fill the blank with \$178,000 was then put and carried—ayes 47, noes 42, and the bill ordered for a third reading to-morrow.

### FRIDAY, March 3.

#### *Call for Statements.*

Mr. GALLATIN said, he wished to propose to the House three resolutions, calling for statements relative to the War Department, which he wished to be laid before the House at the next session. They had heard it said upon that floor, by gentlemen who were considered to be well acquainted with the subject, that many expenses had taken place in that Department which ought to have been checked. Conceiving a check of this kind to be necessary, and knowing the expense of the Military Department was increasing from year to year, beyond what the increase in the number of troops would warrant, it was proper to lay the foundation of an inquiry into the subject. Indeed, having just passed a pretty severe law relative to the Receivers of Public Money, and understanding that the Secretary of the Treasury had a long list of delinquents, he was desirous of taking some steps in the business. From these considerations, he offered the following resolutions for acceptance:

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"*Resolved*, That the Secretary of the Treasury be directed to lay before the House of Representatives, within the first week of January next, abstracts of the accounts of all paymasters, quartermasters, contractors, agents for the purchase of supplies, and generally of all the Receivers of Public Moneys, paid from the Treasury from the 1st of January, 1791, to the 1st of January, 1797, on account of the Military Establishment, so as to exhibit a detailed statement of the whole amount of moneys thus expended to that period; and whether any of the accounts be not finally settled; and shall lay before the House an estimate of moneys not accounted for.

"*Resolved*, That the Secretary of the Treasury be directed to lay, at the same time, before the House of Representatives similar abstracts of the accounts of all the Receivers of Public Money expended for the building of the frigates.

"*Resolved*, That it shall be the duty of the Secretary of the Treasury to lay before the House of Representatives, within the last week of January in each year, a statement of money expended for the Military Establishment during the next preceding year, distinguishing the sums expended under each head, for which specific appropriations have been made, and an estimate of the probable unsettled demands in relation to each of those heads."

The resolutions were severally agreed to.

### EVENING SESSION.

#### *Military and Naval Appropriations.*

The bill appropriating money for the Military and Naval Establishments, was received from the Senate with an amendment, proposing to do away the restriction which had been introduced into the bill to confine the expenditure of money to the specific objects for which each sum is appropriated.

Mr. DANA hoped the House would recede from the amendment.

Mr. GALLATIN said that, by the constitution, no money was to be granted but by a law passed in the regular mode. Now, said Mr. G., this is not by law, if, after a certain sum is granted for one item, it be not used for that purpose, but put to some other object. This was certainly according to the spirit of the constitution, and if you do not strictly abide by that, you may as well set aside the constitution, and say we will appropriate \$6,000,000 for the support of Government for the present year. If we mean to carry the constitution into effect we must reject the amendment.

Mr. SITGREAVES observed, that his opinion on this point was, that the House had a constitutional power to depart from any identifying of articles to sums granted, and that departure grew out of necessity; for the extreme embarrassment which would attend the practice of a strict adherence, would render it impracticable. But, as he did not mean to stand responsible for the motion, he should be satisfied with calling for the yeas and nays; which were agreed to be taken.



Mr. NICHOLAS thought, that when gentlemen went on supporting such unlimited measures as had lately taken place, and voting such a waste of money, it would be very dangerous. When we see large sums voted for an army and navy in time of peace, said he, it would justify us in adopting some regulation to prevent it. The difference between the operation of this and the other mode is, that in this you confine your public officers to the identical object for which a sum is appropriated; otherwise they might use what they would call overplus money for any object they might think fit. According to this method, proposed by the Senate, any sum may be taken from any certain object, and placed to any other, which Mr. N. thought too unbounded a power to be placed in the Executive.

Mr. PARKER said, he would not pretend to justify the expenditure on the Military Establishment, but he could not help observing that the casualties to which the forage and clothing, &c., which is transported to our garrisons, are exposed, are very great. Though at peace with the Indians, it is but a temporary one, and we cannot be sure they will not intercept our stores; besides other accidents to which it is exposed, all which make it necessary that the hands of the Executive should not be tied from using the surplusage of some, for the accidental and unforeseen deficiencies of others; without this the Army may be exposed to the most poignant distress, owing to a deficiency in the appropriation, while the Treasury has money in hand as surplus from other objects. Considering the great importance of an appropriation, he hoped gentlemen would not so incline to oppose the bill, especially, said he, when our existence will not, as a Legislative body, be more than four hours, and, in that time, it must pass other authorities before it can be put into effect; if it is lost, the effects will be bad. Mr. P. said he had as many scruples as any gentleman, and would take every measure to preserve the constitution inviolate, but he should be sorry if, under the fear of offending it, the Government should be stopped.

Mr. HEATH.—If my existence was to be but for one moment, I would stand here and oppose this resolution; to let it pass, is precluding the freedom of inquiry into the conduct of our public officers. If we were to commence this loose kind of a way of appropriating, we may go on to do this, that, and the other, until we were too far to stop. Were we to indulge ourselves to go into the wide fields of accident, we might suppose this and that, but our imaginations would have no end. He lamented the shortness of the time they had to discuss it.

Mr. GILBERT acknowledged this was the age of reason, but he was sorry the House should be inclined to adopt an entire new doctrine of privileges. We should not hazard a new position, when it may be attended with the greatest danger; therefore he hoped they would agree with the Senate.

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Mr. HARPER thought it would not be very difficult to convince gentlemen who oppose it, that the amendment was calculated to secure the very object they wished. It was not a violation of the constitution, as some gentlemen supposed. He would ask, could not an appropriation be made for the use of the Military Establishment in general terms? Yes, he would answer; else how could an appropriation in general terms have been made for the intercourse with foreign nations? Certainly it could not be unconstitutional to appropriate the overplus of one article to supply the deficiency of another. One moment's reflection, Mr. H. thought, would convince members of the error of a contrary opinion. It might not be safe to do it without law, but here is a law allowing it. The whole must suffer if the War Department is deficient, which cannot be avoided if one is not to assist another branch, for it is scarce possible to guard against every contingency. He thought the amendment beneficial in the highest degree, and without it, would stop the War Department in its operations. He hoped no delay would take place, as it endangered the bill.

Mr. VARNUM said, that notwithstanding all that gentlemen might produce to prove the necessity of giving the Executive large powers, yet it was dangerous; he instanced that, if the Executive were determined to man and equip the frigates for sea, they would have power to do it from money appropriated, and intended for other purposes; thus it was transferring a power, solely vested in the Legislature, into the Executive Department. He thought it was an infringement on the constitution; it was putting the power where it never was intended to be; although he had great respect for that department, yet he did not wish to see its powers extended too far. A gentleman had intimated he should not wish the bill to be altered, if he was sure there would not be war with the Indians. He would answer that there could not be a war until the Legislature met again.

Mr. V. said, that there was one-fifth more money appropriated than could be used before the next meeting of Congress, for there would be two months of the present year's appropriation, during any part of which another bill might be passed.

Mr. SWANWICK thought there was no danger of the bill being lost; it was necessary to discuss a principle which appeared to admit of danger; it was throwing the whole of the money to the mercy of the Treasury Department.

Mr. PAGE said he should vote for the amendment, but he rose to express his disapprobation of it, and he should have been glad if there was time to make another bill. We must either suffer the community to abide under great disadvantages, or ourselves. If they could exist, politically, he said he should be happy to destroy that bill. He must acknowledge that it was crammed down his throat.

Mr. LIVINGSTON said, that the reasons urged by the gentleman from Massachusetts, instead of the end he proposed, would have a contrary effect. Mr. L. believed that this amendment had a tendency to lessen the privileges of the House; believing this, no object of convenience, no view to the general opinion, should ever prevent him voting against it. He believed it pregnant with mischief. The Civil and Military Departments would be too easily connected; if the one wanted assistance, while the Treasury had money in hand it would be supplied. He thought the House

had voted sufficient to answer every purpose intended, and he believed, whatever specious arguments may be used, the House would not recede. If any evil attended, he was willing to take his part of the blame; but he was not apprehensive of any.

Mr. W. LYMAN hoped it would not pass, as it was full of danger and bad principles.

Mr. W. SMITH said, the appropriation to the Military Establishment had always been considered a general grant of money; therefore it would introduce no new principles, but the manner of this bill, passed in this House the day before the close of the session, and sent up to the Senate the very day of the adjournment.

Mr. S. said gentlemen talked about the constitution, but he thought they had wrong ideas of the evils of this business: it was not whether they gave too much power to their officers, but the Military Establishment could not go on; then the PRESIDENT would be obliged to alarm the whole nation, and incur a vast expense to get the Congress together, and all for want of due time and regulations: and now we must cram it down the throats of the Senate. Surely gentlemen should have some moderation, and not be so hightoned as to prevent any other branch of the Legislature from exercising their powers as well as us.

On the question being taken to concur with this amendment, the yeas and nays stood, 38 to 52, as follows:

YEAS.—Theophilus Bradbury, Daniel Buck, Dempsey Burges, Joshua Coit, Wm. Cooper, William Craik, Samuel W. Dana, James Davenport, George Dent, George Ege, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, Francis Malbone, John Page, Josiah Parker, Samuel Sewall, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Henry Dearborn, William Findlay, Jesse Franklin, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, John Hathorn, Jonathan N. Havens, John Heath, James Holland, Andrew Jackson, 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 Patten, Elisha R. Potter, John Read, John Richards, Robert Rutherford, John S. Sherburne, Thompson J. Skinner, Richard Sprigg, jr., Thomas Sprigg, William Strudwick, John Swanwick, Joseph B. Varnum, Abraham Venable, and Richard Winn.

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The bill was again sent to the Senate, and was soon after returned with the amendment receded from.

### ***General Lafayette.***

Mr. HARPER moved that a resolution, which he laid on the table yesterday, respecting Major General Lafayette, should be taken up for consideration. The motion was seconded by Mr. W. SMITH. The resolution was in the following words:

"This House, strongly impressed with a just sense of the important and disinterested services rendered to their country during the late war by their fellow-citizen, Major General Lafayette, and deeply regretting the sufferings to which he is now subjected from a long and rigorous imprisonment, and which have equally excited their sympathy, and the ardent wish of their constituents for his deliverance, do resolve that the President of the United States be informed, that this House will see with the highest satisfaction, any measures which he may deem expedient to adopt towards effecting the restoration of their said fellow-citizen to liberty."

The question was taken for the House to take it up, and lost—ayes 32, noes 52.

Mr. LIVINGSTON said he had some time been wishing to put forward something similar; he really hoped some negotiation would be carried on to effect his liberation. It would be honorable to this country to interpose in behalf of this man, who has a claim on American service. While suffering for us on his part, let gratitude, and every feeling that can affect the heart, be ours. Abandoned by his own country, and to increase his sufferings, precluded from almost every enjoyment of life, it would be honorable in us to interest ourselves in his behalf, appropriating some small sum which may enable the PRESIDENT to make some progress towards his releasement. Thus, while it is honorable to America, if it has no effect, it may afford some comfort to the unfortunate sufferer, to think he is not forgotten. He then proposed a resolution, not materially varying from that just offered by Mr. HARPER, hoping that the little variation would prevent it suffering a similar fate.

Mr. PARKER said, as it was a personal question, he hoped it would lie on the table.

Mr. COIT thought it a delicate question, and one which ought not to be agitated, and therefore moved the previous question.

Mr. HARTLEY spoke of Mr. PARKER's observing its personality. He answered that the man suffered

much for this country, and therefore was entitled to regard. He acknowledged with Mr. Coit, that there was much delicacy in the business, and therefore hoped it would speedily be discussed; it ought not be postponed; the man is now suffering in a most distressing confinement. If any of the soldiers of 1789 were here with whom he was in council, there would not be a dissenting voice to using every exertion. He hoped the House would never forget such brilliant services.

Mr. SWANWICK said, there need not be a dissenting voice, but we ought to be cautious how we multiply our negotiations, as this could not be done without entering into a negotiation with the Emperor of Germany in the regular way. It is not want of respect that should prevent us, but are we provided to go into all the consequences attending a new negotiation? There is a delicacy in it, of which we ought to be careful. There is not the least doubt but the PRESIDENT has as much desire for his release as any gentleman, but he, no doubt, deliberated, and saw the danger of it. Mr. S. said he lamented our foreign negotiations *in toto*. There was no good derived from them, and he could not anticipate any from new ones.

Mr. NICHOLAS said, he felt as much disposition to take measures for his release as any man, but he thought the business undertaken too hastily. Suppose you give instructions to the PRESIDENT, and he does not think proper to act on it, so far from being a compliment to Lafayette, it would hurt his mind, should he hear it had been agitated.

Mr. CLAIBORNE saw no difficulty attending the resolution. He hoped the House would render this essential service to the unfortunate sufferer, if even in the last hour of the Congress.

Mr. CHRISTIE said, it was an improper time to take up the resolution, but as they had to sit there two or three hours longer and no business to do, this might as well occupy the attention of the House as not.

Mr. LIVINGSTON would be sorry to impose a burden upon the country, but he thought this a duty incumbent on them. He hoped gentlemen would openly come forward and avow their sentiments, and not shelter themselves under the previous question. Remember, he came here from the pompous ease of a foreign court; he voluntarily served the cause of America, and bled for her; he, in a great measure, procured the interest which formed the alliance with France in our defence; besides spending a princely fortune in our cause, he asked nothing, nor would accept any compensation for his services: and now he is abandoned to the most dreadful situation possible; some of that compensation, justly due to his services, is refused him as a balm to his former woes by not attempting his release. This is the situation of the man for whom this House is asked only to express their desire for his comfort; this is the man who was met with pleasure in every part of the United States; all the people rejoiced to express their gratitude to him; he was accompanied with testimonials of admiration and thanks from the whole Continent: and now we should not say that we will feel with pleasure measures taken towards obtaining his liberty! We can pity him, and regret his situation, but refuse to lend him the least assistance to soothe his distress. We do not call upon the House to vent its infantine sorrow, to show its womanish pity. No. We call on it to express a will, predominant throughout the United States, in the behalf of this unfortunate man. But it is said that we should get the ill will of the nations who persecuted him. Unless they bid adieu to all the tender feelings of humanity, they never can take offence. It has been also supposed it would be ineffectual; he had no doubt but the Executive would take those measures which would be most effectual and least endangering to the nation; it could not make the situation of the sufferer worse, and if we succeed in procuring his liberty, it would give pleasure to every heart who can sympathize with the distressed, or feel gratitude for high obligations: and if it does not have that happy effect, still we may feel consolation at having done our duty. If these measures were taken, it would illuminate the loathsome horrors of a dungeon the most dreadful; it would sweep away the reproach "that Republicans know no gratitude;" that we, who had his best exertions whilst in prosperity, do not forget him in adversity. Mr. L. said he really believed that if he had not known the principles of liberty here, and helped us in our struggle for it, he would have never existed in misery in the dungeon at Olmutz, and therefore the highest obligations were laid on the United States to exert herself in his behalf.

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Mr. HEATH hoped, that, although the gentleman had labored to excite the pathetic, yet he would not charge the House with a want of Republicanism if the measure was not adopted. Mr. H. thought it extremely improper to be introduced in the House. He said the PRESIDENT knew the will of the United States on the subject, and therefore, if he saw proper, he could take it up. He hoped the gentleman would remember this was a complicated case; for, since he had left this country, he had become a citizen of another country. Mr. H. said he felt for his unfortunate situation: he had fought under his banner. We are not to be charged with a want of patriotism and feeling for this suffering hero, because we think it imprudent to interest and involve ourselves in his behalf, merely to indulge the flighty fancy of a few individuals. We might go, said he, and address the PRESIDENT to exert himself as far as he saw proper in his behalf, as a body of individuals, but not as a Legislature.

Mr. W. SMITH could see no kind of impropriety in the measure. It had been said it was a new subject, and, therefore, ought not to be taken up now; but it was not introduced yesterday! Did gentlemen want an age to express an opinion which every member feels—which the whole nation feels? The motion only went to express a wish that measures may be taken according to the judgment of the Executive: if he had a thought or wish to adopt measures, this would encourage him to carry them into effect. Europe might feel a pleasure that we interested ourselves in his behalf. Did he not embark his all for this country? It has been well said, said Mr. S., that if the motion had been made in 1779 or 1780, no previous question would then have been called—no opposition then made. Read the journals of the National Representation for 1780 and 1783: there we find one member from each State was appointed to take leave of him in behalf of the whole.

[Mr. S. here read the journals of that time, which insert at length the proceeding, address, and answer, attending the transaction.] There, said he, they expressed their zeal for his future welfare, and gratitude for his favors, accompanying it with a letter to the French King, requesting him to bestow his favors upon him. From the frequent respectful mention made of his services on the journals of the House, there appears to have been much attention paid to his services by Congress. Even the Parliament of Great Britain, he said, had discussed the question of his confinement; and should this House refuse, who are so much obliged by his services? Nothing that had been said, in opposition to it, could convince him but that we were called upon, by every tie of gratitude, to adopt the measure. The satisfaction of knowing that his services are not forgotten may render him more comfortable in his dungeon—may follow him into the deserts of Siberia, or wherever the cruel hand of oppression may send him.

Mr. MADISON did not think there was time to do all the business requisite to render due justice to the motion, and he hoped the House would do more than was intended by the motion. He believed the only regular mode would be to appoint a committee to bring in a bill. He therefore moved that the House go into committee for that purpose.

Mr. SITGREAVES said, according to the motion there was no necessity for this mode, as it was of a nature not to require the aid of another branch of the Legislature; it was quite sufficient if the House passed the resolution. He was sorry to hear the previous question called for to get rid of the subject, but he hoped it would not prevail: he thought this motion required early attention. He said attention was due to LAFAYETTE; America was highly indebted to him. It is a debt of justice, and ought to be paid; and while this House delays to interpose in his behalf he must remain in confinement. Those gentlemen who thought the House ought to interpose should think this is the very time, if any good is intended to be done: he therefore hoped they would not delay.

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Mr. HARPER said, if the subject was on the sending an ambassador to negotiate for the liberation of this man, it might with more propriety be opposed. He was surprised that any gentleman in the House should be opposed to expressing a wish for measures to be taken which may prove effectual for that purpose.

When he had no need of our caresses, the United States resounded with his name: he was then met with tokens of respect and congratulation wherever he went. But now, pining under the cruel hand of despotic vengeance in a loathsome dungeon, weighed down by chains, with a scanty allowance; when we view his present, contrasted with his past, situation—embarking from the magnificent splendor of a French court, displeasing his sovereign—embarking himself, and hazarding every thing that was dear to him, in support of American liberty—is this the man, Mr. H. would ask, to whom America said, he should never cease to have her best wishes and endeavors for his good, when, in the most grievous captivity, we refuse to express a desire for a morsel of comfort to his depressed mind! What avail our toasts—our boasted recollections of him, and regret at his fate—if we take not every opportunity to alleviate that distress? But the worst of his misfortunes is not to lie in a dungeon: he is now racked with a fear of being sent into the inhospitable deserts of Siberia, whence is no hope ever to expect his return into the civilized world; and, with this unwelcome intelligence, the American Legislature refuses to express a wish for his deliverance! Who knows but the power in whose custody he is may expect America to interest herself in his favor? And by a pretext like this he might be liberated, or at least his fear of removal dissipated, and his present misery alleviated. Mr. H. said he was sure it would be highly gratifying to the citizens of America to hear of the measure; they had long expected it, and, if undertaken, he had the greatest hopes of its success, in a measure. If it should but tend to soften his present distress, it would be a happiness; but if its effects should be to restore to liberty one to whom America is so much indebted, it would amply repay whatsoever trouble is taken towards its accomplishment.

Mr. W. LYMAN did not doubt of the services of the Marquis Lafayette; he was always the subject of adoration and the toast of this country. Besides, it has made him liberal grants for his services, and he thought there could be no proof that we were wanting in marks of esteem for him. With respect to the motion, Mr. L. asked, to whom was application to be made? Does any gentleman on this floor know who confined him, or by order of what government? No court are willing to avow it. Britain, France, and Prussia disavow it, and he believed the Emperor also. Until that was clear, the measure would be improper. May not the agitation of such a question in the House awaken a jealousy in some of those powers towards us, which may militate to our injury, and injure the man whom the attempt is meant to serve? Gentlemen have depicted his sufferings in very lively colors, said Mr. L., and were it in my power, or were it consistently in the power of the House, I should be very happy to afford relief. Until some of the difficulties in its way were cleared, he said, he should be forced to put his negative to it. He thought gentlemen who saw the matter so necessary, and the way so clear, had reason to reproach themselves for letting it sleep so long, and for having introduced it at the last hour of the session of the Houses.

Mr. HARPER and Mr. LIVINGSTON said that nothing but the constant press of public business had prevented their motions sooner, and they thought there was even now time enough, as it only required the expression of a desire of the House for the object.

Mr. BUCK said the services and sufferings of the Marquis were indelibly written on the hearts of all the citizens of America, and he thought there was no need of that torrent of oratory which had been displayed to affect the feelings of the House. He thought it would prove its weakness to suffer its feelings to predominate. We ought to give a decision only by the force of judgment, after due deliberation; for *feeling* could not look forward to consequences. Were we implicitly to obey it, we should take many bad steps. Do we not know, said Mr. B., that he is among the persons proscribed by France? and, considering the very brittle situation of our peace with that

country at present, we should be induced rather to strengthen than weaken our ties; for the motion goes to authorize the PRESIDENT to take *any* measures to support Lafayette. This being the situation, we know not where the measures may end, and it would be a serious thing to be plunged in a war with France on that account. He hoped the House would not precipitate the business, but give themselves time to examine the consequences. This, Mr. B. said, had induced him to oppose the motion. Though congenial to his feelings, he therefore should vote for the previous, and against the main question.

Mr. CLAIBORNE was against the previous question. He would hazard any thing for the happiness of a man we owe so much to—who sees, said he, the unfortunate man with his lady and daughter, under all the miseries that despotism and tyranny can inflict, in a wretched dungeon, without even the comforts of life! Here he appealed to the feelings of the members in a very forcible manner, and, with the most bitter invective, ardently wished the destruction of his cruel oppressors. He observed on the uneasiness the members of the House were in if public business detained them half an hour after the usual time of their dinners, and applied the case to this unfortunate man in continual confinement, and after all with miserable fare.

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The previous question was then put, "Shall the main question be now put?" and negatived—ayes 25.

Mr. LIVINGSTON then brought forward a similar resolution, which caused very considerable debate, and was at length got rid of by the previous question. The principal objection to the adoption of this motion seemed to be the late period at which it was brought forward. All were agreed as to the merits and the misfortunes of the man, and had the motion been introduced at any other time than on the eve of the rising of the session, there could be little doubt it would have been agreed to by a very large majority.<sup>[13]</sup>

### ***Thanks to the Speaker.***

Mr. BLOUNT said he wished to offer a resolution to the House, which, as he was certain there could be no opposition to it, would occupy little of their time. He should wish the Clerk to read it, and take the sense of the House upon it. It was in the following words:

"*Resolved*, That the thanks of this House be presented to JONATHAN DAYTON, in testimony of their approbation of his conduct in discharging the arduous and important duties assigned him while in the chair."

The Clerk accordingly put the resolution, and it was unanimously carried; when—

The SPEAKER thus addressed the House:

"GENTLEMEN: I feel myself deeply impressed with this fresh proof of your approbation of my conduct in the chair. The confidence and support which you have in every instance afforded me, in the station assigned to me, have alone enabled me to discharge the important duty with satisfaction to myself, and with advantage to the public."

### ***Adjournment of the Session.***

A message was received from the Senate, informing the House that they had appointed a committee to join a committee of that House, to wait upon the PRESIDENT to inform him they had finished their business, and, except he had any further communications to make, they were ready to adjourn, without day.

The House then agreed to appoint a committee to join that of the Senate to wait upon the PRESIDENT, and MESSRS. SITGREAVES, PARKER, and SHERBURNE being named, they accordingly waited upon the PRESIDENT; and—

Mr. SITGREAVES reported that the PRESIDENT had no further communication to make, except "that he wished them a happy return to their families and friends."

The SPEAKER then adjourned the House *sine die*, at about eleven o'clock.<sup>[14]</sup>

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## **FIFTH CONGRESS.—FIRST SESSION.**

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**BEGUN AT THE CITY OF PHILADELPHIA, MAY 15, 1797.**<sup>[15]</sup>

**PRESIDENT OF THE UNITED STATES,—JOHN ADAMS.**

### **LIST OF MEMBERS.**

#### **SENATORS.**

*New Hampshire.*—John Langdon, S. Livermore.

*Vermont.*—Nathaniel Chipman, Elijah Paine.

*Massachusetts.*—Benj. Goodhue, Theodore Sedgwick.

*Rhode Island.*—Theodore Foster, Ray Greene.

*Connecticut.*—James Hillhouse, Uriah Tracy.

*New York.*—John S. Hobart, John Laurance.

*New Jersey.*—John Rutherford, R. Stockton.

*Pennsylvania.*—William Bingham, James Ross.

*Delaware.*—Henry Latimer, John Vining.

*Maryland.*—John E. Howard, James Lloyd,

*Virginia.*—Stevens T. Mason, Henry Tazewell.

*North Carolina.*—Timothy Bloodworth, Alexander Martin.

*South Carolina.*—John Hunter, Jacob Read.

*Georgia.*—James Gunn, Josiah Tattnall.

*Tennessee.*—Joseph Anderson, Andrew Jackson.

*Kentucky.*—John Brown, Humphrey Marshall.

## REPRESENTATIVES.

*New Hampshire.*—Abiel Foster, Jonathan Freeman, William Gordon, Peleg Sprague.

*Vermont.*—Matthew Lyon, Lewis B. Morris.

*Massachusetts.*—Bailey Bartlett, Stephen Bullock, Dwight Foster, Nathaniel Freeman, Samuel Lyman, Harrison G. Otis, John Read, Samuel Sewall, William Shepard, Thompson J. Skinner, George Thatcher, Joseph B. Varnum, P. Wadsworth.

*Rhode Island.*—C. G. Champlin, Thomas Tillinghast.

*Connecticut.*—John Allen, Jona. Brace, Joshua Coit, Samuel W. Dana, James Davenport, O. Goodrich, Roger Griswold, Nathaniel Smith.

*New York.*—David Brooks, John Cochran, Lucas Elmendorph, Henry Glenn, J. N. Havens, Hezekiah L. Hosmer, E. Livingston, John E. Van Allen, Philip Van Cortlandt, John Williams.

*New Jersey.*—Jona. Dayton, James H. Imlay, James Schureman, Thomas Sinnickson, Mark Thompson.

*Pennsylvania.*—David Bard, Robert Brown, John Chapman, William Findlay, Albert Gallatin, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, John W. Kittera, Blair McClenachan, Samuel Sitgreaves, John Swanwick, Richard Thomas.

*Delaware.*—James A. Bayard.

*Maryland.*—George Baer, William Craik, John Dennis, George Dent, William Hindman, William Matthews, Samuel Smith, Richard Sprigg.

*Virginia.*—Richard Brent, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Isaac Coles, John Dawson, Thomas Evans, Carter B. Harrison, David Holmes, Walter Jones, James Machir, Daniel Morgan, Anthony New, John Nicholas, Josiah Parker, Abram Trigg, John Trigg, A. B. Venable.

*North Carolina.*—Thomas Blount, Nathan Bryan, Dempsey Burges, James Gillespie, William B. Grove, Matthew Locke, Nathaniel Macon, Joseph McDowell, Richard Stanford, Robert Williams.

*South Carolina.*—Lemuel Benton, R. G. Harper, Thomas Pinckney, John Rutledge, William Smith, Thomas Sumter.

*Georgia.*—A. Baldwin, John Milledge.

*Tennessee.*—William C. C. Claiborne.

*Kentucky.*—Thomas T. Davis, John Fowler.

## PROCEEDINGS IN THE SENATE.

The first session of the Fifth Congress, under the Constitution of Government of the United States, commenced at the city of Philadelphia, agreeably to the Proclamation of the PRESIDENT OF THE UNITED STATES, of the twenty-fifth day of March last, and the Senate accordingly assembled on this day, being

**MONDAY, May 15, 1797.**

PRESENT:

THOMAS JEFFERSON, Vice President of the United States, and President of the Senate.

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

BENJAMIN GOODHUE, from Massachusetts.

THEODORE FOSTER and WILLIAM BRADFORD, from Rhode Island.

JAMES HILLHOUSE and URIAH TRACY, from Connecticut.

ISAAC TICHENOR, from Vermont.

JOHN LAURANCE, from New York.

WILLIAM BINGHAM, from Pennsylvania.

HENRY LATIMER, from Delaware.

JOHN E. HOWARD, from Maryland.

STEVENS T. MASON, from Virginia.

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina.

JOHN HUNTER, from South Carolina.

JOSIAH TATTNALL, from Georgia.

The Senators whose names are subjoined produced their credentials on the 4th day of March last, and took their seats in the Senate, viz: Mr. FOSTER, Mr. GOODHUE, Mr. HILLHOUSE, Mr. HOWARD, Mr. LATIMER, Mr. MASON, Mr. ROSS, and Mr. TICHENOR.

WILLIAM COOKE, appointed a Senator by the State of Tennessee, produced his credentials, and the oath required by law being administered, he took his seat in the Senate.

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled.

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

A message from the House of Representatives informed the Senate, that a quorum of the House is assembled, and have elected JONATHAN DAYTON their Speaker.

A message from the House of Representatives informed the Senate that the House have appointed a joint committee on their part, together with such committee as the Senate may appoint, to wait on the PRESIDENT OF THE UNITED STATES, and inform 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.

*Resolved*, That the Senate do concur in the appointment of a joint committee, and that Messrs. LIVERMORE and LANGDON be the joint committee on the part of the Senate.

Mr. LIVERMORE reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses is assembled; and that 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, May 16.

WILLIAM BLOUNT, from the State of Tennessee; THEODORE SEDGWICK, from the State of Massachusetts; and JOHN VINING, from the State of Delaware, severally 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 returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES, this day addressed to both Houses of Congress, was read.

### *Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The personal inconveniences to the members of the Senate, and of the House of Representatives, in leaving their families and private affairs, at this season of the year, are so obvious, that I the more regret the extraordinary occasion which has rendered the convention of Congress indispensable.

It would have afforded me the highest satisfaction to have been able to congratulate you on a restoration of peace to the nations of Europe, whose animosities have endangered our tranquillity; but we have still abundant cause of gratitude to the Supreme Dispenser of national blessings, for general health and promising seasons; for domestic and social happiness; for the rapid progress and ample acquisitions of industry, through extensive territories; for civil, political, and religious liberty. While other States are desolated with foreign war, or convulsed with intestine divisions, the United States present the pleasing prospect of a nation governed by mild and equal laws, generally satisfied with the possession of their rights; neither envying the advantages nor fearing the power of other nations; solicitous only for the maintenance of order and justice, and the preservation of liberty; increasing daily in their attachment to a system of government in proportion to their experience of its utility; yielding a ready and general obedience to laws flowing from the reason, and resting on the only solid

foundation—the affections of the people.

It is with extreme regret that I shall be obliged to turn your thoughts to other circumstances, which admonish us that some of these felicities may not be lasting; but, if the tide of our prosperity is full, and a reflux commencing, a vigilant circumspection becomes us, that we may meet our reverses with fortitude, and extricate ourselves from their consequences with all the skill we possess, and all the efforts in our power.

In giving to Congress information of the state of the Union, and recommending to their consideration such measures as appear to me to be necessary or expedient, according to my constitutional duty, the causes and the objects of the present extraordinary session will be explained.

After the President of the United States received information that the French Government had expressed serious discontents at some proceedings of the Government of these States, said to affect the interests of France, he thought it expedient to send to that country a new Minister, fully instructed to enter on such amicable discussions and to give such candid explanations as might happily remove the discontents and suspicions of the French Government and vindicate the conduct of the United States. For this purpose he selected from among his fellow-citizens a character whose integrity, talents, experience, and services, had placed him in the rank of the most esteemed and respected in the nation. The direct object of this mission was expressed in his letter of credence to the French Republic, being "to maintain that good understanding which, from the commencement of the alliance, had subsisted between the two nations, and to efface unfavorable impressions; banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union;" and his instructions were to the same effect, "faithfully to represent the disposition of the Government and people of the United States (their disposition being one) to remove jealousies and obviate complaints, by showing that they were groundless; to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries and the real sentiments of his own."

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A Minister thus specially commissioned, it was expected, would have proved the instrument of restoring mutual confidence between the two Republics; the first step of the French Government corresponded with that expectation. A few days before his arrival at Paris, the French Minister of Foreign Relations informed the American Minister, then resident at Paris, of the formalities to be observed by himself in taking leave, and by his successor preparatory to his reception. These formalities they observed; and on the ninth of December presented officially to the Minister of Foreign Relations, the one a copy of his letters of recall, the other a copy of his letters of credence. These were laid before the Executive Directory: two days afterwards, the Minister of Foreign Relations informed the recalled American Minister that the Executive Directory had determined not to receive another Minister Plenipotentiary from the United States until after the redress of grievances demanded of the American Government, and which the French Republic had a right to expect from it. The American Minister immediately endeavored to ascertain whether, by refusing to receive him, it was intended that he should retire from the territories of the French Republic, and verbal answers were given that such was the intention of the Directory. For his own justification he desired a written answer; but obtained none until towards the last of January; when receiving notice in writing to quit the territories of the Republic, he proceeded to Amsterdam, where he proposed to wait for instruction from this Government. During his residence at Paris, cards of hospitality were refused him, and he was threatened with being subjected to the jurisdiction of the Minister of Police, but with becoming firmness he insisted on the protection of the law of nations, due to him as the known Minister of a foreign power. You will derive further information from his despatches, which will be laid before you.

As it is often necessary that nations should treat, for the mutual advantage of their affairs, and especially to accommodate and terminate differences, and as they can treat only by Ministers, the right of embassy is well known, and established by the law and usage of nations; the refusal on the part of France to receive our Minister is then the denial of a right; but the refusal to hear him, until we have acceded to their demands, without discussion, and without investigation, is to treat us neither as allies, nor as friends, nor as a sovereign State.

With this conduct of the French Government, it will be proper to take into view the public audience given to the late Minister of the United States, on his taking leave of the Executive Directory. The speech of the President<sup>[16]</sup> discloses sentiments more alarming than the refusal of a Minister; because more dangerous to our independence and union; and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns;



and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France, and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence; and regardless of national honor, character, and interest.

I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the American breast; it is my sincere desire, however, that it may be healed. It is my desire, and in this I presume I concur with you, and with our constituents, to preserve peace and friendship with all nations; and believing that neither the honor nor the interest of the United States absolutely forbid the repetition of advances for securing these desirable objects with France, I shall institute a fresh attempt at negotiation, and shall not fail to promote and accelerate an accommodation, on terms compatible with the rights, duties, interests, and honor of the nation. If we have committed errors, and these can be demonstrated, we shall be willing to correct them. If we have done injuries, we shall be willing, on conviction, to redress them; and equal measures of justice we have a right to expect from France and every other nation.

The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country; nevertheless, there is reason to believe that the Executive Directory passed a decree, on the second of March last, contravening, in part, the Treaty of Amity and Commerce, of one thousand seven hundred and seventy-eight, injurious to our lawful commerce, and endangering the lives of our citizens. A copy of this decree will be laid before you.

While we are endeavoring to adjust all our differences with France by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and general complexion of affairs, render it my indispensable duty to recommend to your consideration effectual measures of defence.

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The commerce of the United States has become an interesting object of attention, whether we consider it in relation to the wealth and finances, or the strength and resources of the nation. With a sea-coast of near two thousand miles in extent, opening a wide field for fisheries, navigation, and commerce, a great portion of our citizens naturally apply their industry and enterprise to these objects. Any serious and permanent injury to commerce, would not fail to produce the most embarrassing disorders; to prevent it from being undermined and destroyed, it is essential that it receive an adequate protection.

The Naval Establishment must occur to every man who considers the injuries committed on our commerce, the insults offered to our citizens, and the description of vessels by which these abuses have been practised. As the sufferings of our mercantile and seafaring citizens cannot be ascribed to the omission of duties demandable, considering the neutral situation of our country, they are to be attributed to the hope of impunity, arising from a supposed inability on our part to afford protection. To resist the consequences of such impressions on the minds of foreign nations, and to guard against the degradation and servility which they must finally stamp on the American character, is an important duty of Government.

A Naval power, next to the Militia, is the natural defence of the United States. The experience of the last war would be sufficient to show, that a moderate Naval force, such as would be easily within the present abilities of the Union, would have been sufficient to have baffled many formidable transportations of troops from one State to another, which were then practised. Our sea-coasts, from their great extent, are more easily annoyed and more easily defended by a Naval force than any other. With all the materials our country abounds; in skill, our naval architects and navigators are equal to any; and commanders and seamen will not be wanting.

But although the establishment of a permanent system of Naval defence appears to be requisite, I am sensible it cannot be formed so speedily and extensively as the present crisis demands. Hitherto I have thought proper to prevent the sailing of armed vessels, except on voyages to the East Indies, where general usage, and the danger from pirates, appeared to render permission proper; yet the restriction has originated solely from a wish to prevent collusions with the powers at war, contravening the act of Congress of June, one thousand seven hundred and ninety-four, and not from any doubt entertained by me of the policy and propriety of permitting our vessels to employ means of defence, while engaged in a lawful foreign commerce. It remains for Congress to prescribe such regulations as will enable our seafaring citizens to defend themselves against violations of the law of nations; and, at the same time, restrain them from committing acts of hostility against the powers at war. In addition to this voluntary provision for defence by individual citizens, it appears to me necessary to equip the frigates, and provide

other vessels of inferior force to take under convoy such merchant vessels as shall remain unarmed.

The greater part of the cruisers whose depredations have been most injurious, have been built, and some of them partially equipped in the United States. Although an effectual remedy may be attended with difficulty, yet I have thought it my duty to present the subject generally to your consideration. If a mode can be devised by the wisdom of Congress to prevent the resources of the United States from being converted into the means of annoying our trade, a great evil will be prevented. With the same view I think it proper to mention that some of our citizens resident abroad have fitted out privateers, and others have voluntarily taken the command, or entered on board of them, and committed spoliations on the commerce of the United States. Such unnatural and iniquitous practices can be restrained only by severe punishments.

But besides a protection of commerce on the seas, I think it highly necessary to protect it at home, where it is collected in our most important ports. The distance of the United States from Europe, and the well-known promptitude, ardor, and courage of the people, in defence of their country, happily diminish the probability of invasion: nevertheless, to guard against sudden and predatory incursions, the situation of some of our principal seaports demands your consideration; and as our country is vulnerable in other interests besides those of its commerce, you will seriously deliberate whether the means of general defence ought not to be increased by an addition to the regular artillery and cavalry, and by arrangements for forming a provisional army.

With the same view, and as a measure, which even in a time of universal peace ought not to be neglected, I recommend to your consideration a revision of the laws for organizing, arming, and disciplining the militia, to render that natural and safe defence of the country efficacious. Although it is very true, that we ought not to involve ourselves in the political system of Europe, but to keep ourselves always distinct and separate from it if we can, yet to effect this separation, early, punctual, and continual information of the current chain of events, and of the political projects in contemplation, is no less necessary than if we were directly concerned in them. It is necessary in order to the discovery of the efforts made to draw us into the vortex, in season to make preparations against them. However we may consider ourselves, the maritime and commercial powers of the world will consider the United States of America as forming a weight, in that balance of power in Europe, which can never be forgotten or neglected. It would not only be against our interest, but it would be doing wrong to one half of Europe, at least, if we should voluntarily throw ourselves into either scale. It is a natural policy for a nation that studies to be neutral, to consult with other nations engaged in the same studies and pursuits. At the same time that measures ought to be pursued with this view, our treaties with Prussia and Sweden, one of which is expired, and the other near expiring, might be renewed.

*Gentlemen of the House of Representatives:*

It is particularly your province to consider the state of the public finances; and to adopt such measures respecting them as exigencies shall be found to require. The preservation of public credit, the regular extinguishment of the public debt, and a provision of funds to defray any extraordinary expenses, will of course call for your serious attention. Although the imposition of new burdens cannot be in itself agreeable, yet there is no ground to doubt that the American people will expect from you such measures as their actual engagements, their present security, and future interests demand.

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

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The present situation of our country imposes an obligation on all the departments of Government to adopt an explicit and decided conduct. In my situation, an exposition of the principles by which my administration will be governed ought not to be omitted.

It is impossible to conceal from ourselves or the world, what has been before observed, that endeavors have been employed to foster and establish a division between the Government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary; but to repel by decided and united councils insinuations so derogatory to the honor, and aggressions so dangerous to the constitution, union, and even independence, of the nation, is an indispensable duty.

It must not be permitted to be doubted, whether the people of the United States will support the Government established by their voluntary consent, and appointed by their free choice, or whether by surrendering themselves to the direction of foreign and domestic factions, in opposition to their own Government, they will forfeit the honorable station they have hitherto maintained.

For myself, having never been indifferent to what concerned the interests of my country, devoted the best part of my life to obtain and support its independence,

and constantly witnessed the patriotism, fidelity, and perseverance of my fellow-citizens, on the most trying occasions, it is not for me to hesitate or abandon a cause in which my heart has been so long engaged.

Convinced that the conduct of the Government has been just and impartial to foreign nations; that those internal regulations, which have been established by law for the preservation of peace, are in their nature proper, and that they have been fairly executed; nothing will ever be done by me to impair the national engagements, to innovate upon principles, which have been so deliberately and uprightly established, or to surrender in any manner the rights of the Government. To enable me to maintain this declaration, I rely upon God with entire confidence, on the firm and enlightened support of the National Legislature, and upon the virtue and patriotism of my fellow-citizens.

JOHN ADAMS.

*Ordered*, That Messrs. TRACY, LAURANCE, and LIVERMORE 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, May 17.**

RICHARD STOCKTON, from the State of New Jersey, attended.

### **THURSDAY, May 18.**

HENRY TAZEWELL, from the State of Virginia, attended.

### **FRIDAY, May 19.**

JOHN HENRY, from the State of Maryland, attended.

### **MONDAY, May 22.**

JOHN BROWN, from the State of Kentucky, and JACOB READ, from the State of South Carolina, severally attended.

JOHN RUTHERFORD, appointed a Senator from the State of New Jersey, produced his credentials, which were read, and the oath required by law being administered to him, he took his seat in the Senate.

### **TUESDAY, May 23.**

The Senate resumed the consideration of the report of the committee of the draft of an Address, in answer to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, at the opening of the session.

On the motion to expunge the following paragraph, to wit:

"We are happy, since our sentiments on the subject are in perfect unison with yours, in this public manner to declare, that the conduct of the Government has been just and impartial to foreign nations, and that those internal regulations, which have been established for the preservation of peace, are, in their nature, proper, and have been fairly executed."

It was determined in the negative—yeas 11, nays 15, as follows:

YEAS—Messrs. Bloodworth, Blount, Brown, Cocke, Henry, Hunter, Langdon, Martin, Mason, Tazewell, and Tattnell.

NAYS—Messrs. Bingham, Bradford, Foster, Goodhue, Hillhouse, Howard, Laurance, Latimer, Livermore, Read, Rutherford, Sedgwick, Stockton, Tichenor, and Tracy.

And the report being further amended, was adopted, as follows:

SIR: The Senate of the United States request you to accept their acknowledgments for the comprehensive and interesting detail you have given in your Speech to both Houses of Congress, on the existing state of the Union.

While we regret the necessity of the present meeting of the Legislature, we wish to express our entire approbation of your conduct in convening it on this momentous occasion.

The superintendence of our national faith, honor, and dignity, being, in a great measure, constitutionally deposited with the Executive, we observe, with singular satisfaction, the vigilance, firmness, and promptitude, exhibited by you, in this critical state of our public affairs, and from thence derive an evidence and pledge of the rectitude and integrity of your administration. And we are sensible it is an object of primary importance, that each branch of the Government should adopt a language and system of conduct which shall be cool, just, and dispassionate, but firm, explicit, and decided.

We are equally desirous, with you, to preserve peace and friendship with all nations, and are happy to be informed, that neither the honor nor interests of the United States forbid advances for securing those desirable objects, by amicable negotiation with the French Republic. This method of adjusting national differences is not only the most mild, but the most rational and humane, and with governments disposed to be just, can seldom fail of success, when fairly, candidly, and sincerely used. If we have committed errors, and can be made sensible of them, we agree with you in opinion that we ought to correct them, and compensate the injuries which may have been consequent thereon; and we trust the French Republic will be actuated by the same just and benevolent principles of national policy.

We do, therefore, most sincerely approve of your determination to promote and accelerate an accommodation of our existing differences with that Republic, by negotiation, on terms compatible with the rights, duties, interests, and honor of our nation. And you may rest assured of our most cordial co-operation, so far as it may become necessary, in this pursuit.

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Peace and harmony with all nations is our sincere wish; but, such being the lot of humanity, that nations will not always reciprocate peaceable dispositions, it is our firm belief, that effectual measures of defence will tend to inspire that national self-respect and confidence at *home*, which is the unfailing source of respectability *abroad*, to check aggression, and prevent war.

While we are endeavoring to adjust our differences with the French Republic, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs, prove to us your vigilant care, in recommending to our attention effectual measures of defence.

Those which you recommend, whether they relate to external defence, by permitting our citizens to arm for the purpose of repelling aggressions on their commercial rights, and by providing sea convoys, or to internal defence, by increasing the establishments of artillery and cavalry, by forming a provisional army, by revising the militia laws, and fortifying, more completely, our ports and harbors, will meet our consideration, under the influence of the same just regard for the security, interest, and honor of our country, which dictated your recommendation.

Practices so unnatural and iniquitous, as those you state, of our own citizens, converting their property and personal exertions into the means of annoying our trade, and injuring their fellow-citizens, deserve legal severity commensurate with their turpitude.

Although the Senate believe that the prosperity and happiness of our country does not depend on general and extensive political connections with European nations, yet we can never lose sight of the propriety as well as necessity of enabling the Executive, by sufficient and liberal supplies, to maintain, and even extend, our foreign intercourse, as exigencies may require, reposing full confidence in the Executive, in whom the constitution has placed the powers of negotiation.

We learn, with sincere concern, that attempts are in operation to alienate the affections of our fellow-citizens from their Government. Attempts so wicked, wherever they exist, cannot fail to excite our utmost abhorrence. A Government chosen by the people for their own safety and happiness, and calculated to secure both, cannot lose their affections, so long as its administration pursues the principle upon which it was erected. And your resolution to observe a conduct just and impartial to all nations, a sacred regard to our national engagements, and not to impair, the rights of our Government, contains principles which cannot fail to secure to your administration the support of the National Legislature, to render abortive every attempt to excite dangerous jealousies among us, and to convince the world that our Government, and your administration of it, cannot be separated from the affectionate support of every good citizen. And the Senate cannot suffer the present occasion to pass, without thus publicly and solemnly expressing their attachment to the constitution and Government of their country; and as they hold themselves responsible to their constituents, their consciences, and their God, it is their determination, by all their exertions, to repel every attempt to alienate the affections of the people from the Government, so highly injurious to the honor, safety, and independence of the United States.

We are happy, since our sentiments on the subject are in perfect unison with yours, in this public manner to declare, that we believe the conduct of the Government has been just and impartial to foreign nations, and that those internal regulations which have been established for the preservation of peace, are in their nature proper, and have been fairly executed.

And we are equally happy in possessing an entire confidence in your abilities and exertions in your station to maintain untarnished the honor, preserve the peace, and support the independence of our country; to acquire and establish which, in connection with your fellow-citizens, has been the virtuous effort of a principal

part of your life.

To aid you in these arduous and honorable exertions, as it is our duty, so it shall be our faithful endeavor. And we flatter ourselves, sir, that the proceedings of the present session of Congress will manifest to the world, that, although the United States love peace, they will be independent. That they are sincere in their declarations to be just to the French, and all other nations, and expect the same in return.

If a sense of justice, a love of moderation and peace, shall influence their councils, which we sincerely hope, we shall have just grounds to expect peace and amity between the United States and all nations will be preserved.

But if we are so unfortunate as to experience injuries from any foreign power, and the ordinary methods by which differences are amicably adjusted between nations shall be rejected, the determination "not to surrender in any manner the rights of the Government" being so inseparably connected with the dignity, interest, and independence of our country, shall by us be steadily and inviolably supported.

THOMAS JEFFERSON,  
*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. TRACY 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.

*Resolved*, That the Senate will, to-morrow, at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

### **WEDNESDAY, May 24.**

ELIJAH PAINE, from the State of Vermont, attended.

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 made the following reply:

*Mr. Vice President, and Gentlemen of the Senate:*

It would be an affectation in me to dissemble the pleasure I feel on receiving this kind Address.

My long experience of the wisdom, fortitude, and patriotism of the Senate of the United States, enhances in my estimation the value of those obliging expressions of your approbation of my conduct, which are a generous reward for the past, and an affecting encouragement to constancy and perseverance in future.

Our sentiments appear to be so entirely in unison, that I cannot but believe them to be the rational result of the understandings and the natural feelings of the hearts of Americans in general, on contemplating the present state of the nation.

While such principles and affections prevail, they will form an indissoluble bond of union, and a sure pledge that our country has no essential injury to apprehend from any portentous appearances abroad. In a humble reliance on Divine Providence, we may rest assured, that, while we reiterate with sincerity our endeavors to accommodate all our differences with France, the independence of our country cannot be diminished, its dignity degraded, or its glory tarnished, by any nation or combination of nations, whether friends or enemies.

JOHN ADAMS.

The Senate returned to their own Chamber, and adjourned.

### **FRIDAY, May 26.**

HUMPHREY MARSHALL, from the State of Kentucky, attended.

### **MONDAY, May 29.**

JAMES ROSS, from the State of Pennsylvania, attended.

### **SATURDAY, June 24.**

The following confidential Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and of the House of Representatives:*

The Dey of Algiers has manifested a predilection for American built vessels, and, in consequence, has desired that two vessels might be constructed and equipped, as

cruisers, according to the choice and taste of Captain O'Brien. The cost of two such vessels, built with live oak and cedar, and coppered, with guns and all other equipments complete, is estimated at forty-five thousand dollars. The expense of navigating them to Algiers may, perhaps, be compensated by the freight of the stores with which they may be loaded on account of our stipulations by treaty with the Dey.

A compliance with the Dey's request appears to me to be of serious importance. He will repay the whole expense of building and equipping the two vessels; and as he has advanced the price of our peace with Tripoli, and become pledged for that of Tunis, the United States seem to be under peculiar obligations to provide this accommodation; and I trust that Congress will authorize the advance of money necessary for that purpose.

JOHN ADAMS.

UNITED STATES, *June 23, 1797.*

*Ordered*, That it lie for consideration.

### **SATURDAY, July 1.**

JAMES GUNN, from the State of Georgia, attended.

### **WEDNESDAY, July 5.**

The VICE PRESIDENT obtained leave of absence for the remainder of the session.

### **THURSDAY, July 6.**

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides, and the Hon. WILLIAM BRADFORD was duly elected.

### **FRIDAY, July 7.**

A message from the House of Representatives informed the Senate that the House have passed a resolution, that the President of the Senate, and the Speaker of the House of Representatives, be authorized to close the present session, by adjourning their respective Houses on Monday, the 10th day of this month; in which they desire the concurrence of the Senate.

### **MONDAY, July 10.**

*Ordered*, That Mr. TRACY and Mr. READ be a joint committee on the part of the Senate, with such as the House of Representatives may appoint on their part, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

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 notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Mr. TRACY reported from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, agreeably to order, who replied, that he had no further communication to make to Congress, except a respectful and affectionate farewell.

The PRESIDENT then adjourned the Senate without day.

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## **FIFTH CONGRESS.—FIRST SESSION.**

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### **PROCEEDINGS AND DEBATES IN THE HOUSE OF REPRESENTATIVES.**

In pursuance of the authority given by the constitution, the PRESIDENT OF THE UNITED STATES, on the 25th day of March last, caused to be issued the Proclamation which follows:

#### **BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:**

#### **A PROCLAMATION.**

Whereas the Constitution of the United States of America provides that the President may, on extraordinary occasions, convene both Houses of Congress; and whereas an extraordinary occasion exists for convening Congress, and divers weighty matters claim their consideration, I have therefore thought it necessary to convene, and I do by these presents convene the Congress of the United States of

America, at the City of Philadelphia, in the Commonwealth of Pennsylvania, on Monday the fifteenth day of May next, hereby requiring the Senators and Representatives in the Congress of the United States of America, and every of them, that, laying aside all other matters and cares, they then and there meet and assemble in Congress, in order to consult and determine on such measures as in their wisdom shall be deemed meet for the safety and welfare of the said United States.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the City of Philadelphia the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and ninety-seven, and of the Independence of the United States of America the twenty-first.

[L. S.]

JOHN ADAMS.

By the President: TIMOTHY PICKERING, *Secretary of State*.

### MONDAY, May 15, 1797.

This being the day appointed by the Proclamation of the PRESIDENT OF THE UNITED STATES, of the 25th of March last, for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

*From New Hampshire.*—ABIEL FOSTER and JONATHAN FREEMAN.

*From Massachusetts.*—THEOPHILUS BRADBURY, DWIGHT FOSTER, NATHANIEL FREEMAN, Jr., SAMUEL LYMAN, HARRISON GRAY OTIS, JOHN READ, SAMUEL SEWALL, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH BRADLEY VARNUM, and PELEG WADSWORTH.

*From Rhode Island.*—CHRISTOPHER G. CHAMPLIN and ELISHA R. POTTER.

*From Connecticut.*—JOSHUA COIT, SAMUEL W. DANA, JAMES DAVENPORT, CHAUNCEY GOODRICH, ROGER GRISWOLD, and NATHANIEL SMITH.

*From Vermont.*—MATTHEW LYON.

*From New York.*—DAVID BROOKS, JAMES COCHRAN, LUCAS ELMENDORPH, HENRY GLENN, JONATHAN N. HAVENS, HEZEKIAH L. HOSMER, EDWARD LIVINGSTON, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

*From New Jersey.*—JONATHAN DAYTON, JAMES H. IMLAY, and MARK THOMPSON.

*From Pennsylvania.*—DAVID BARD, JOHN CHAPMAN, GEORGE EGE, ALBERT GALLATIN, JOHN ANDRE HANNA, THOMAS HARTLEY, JOHN WILKES KITTERA, BLAIR M'CLENACHAN, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

*From Maryland.*—GEORGE BAER, Jr., WILLIAM CRAIK, JOHN DENNIS, GEORGE DENT, WILLIAM HINDMAN, WILLIAM MATTHEWS, and RICHARD SPRIGG, Jr.

*From Virginia.*—SAMUEL JORDAN CABELL, THOMAS CLAIBORNE, MATTHEW CLAY, JOHN CLOPTON, JOHN DAWSON, THOMAS EVANS, WILLIAM B. GILES, CARTER B. HARRISON, DAVID HOLMES, WALTER JONES, JAMES MACHIR, DANIEL MORGAN, ANTHONY NEW, JOHN NICHOLAS, ABRAM TRIGG, and ABRAHAM VENABLE.

*From North Carolina.*—THOMAS BLOUNT, NATHAN BRYAN, JAMES GILLESPIE, WILLIAM BARRY GROVE, MATTHEW LOCKE, NATHANIEL MACON, RICHARD STANFORD, and ROBERT WILLIAMS. [Pg 121]

*From South Carolina.*—ROBERT GOODLOE HARPER, JOHN RUTLEDGE, Jr., and WILLIAM SMITH, (of Charleston District.)

*From Georgia.*—ABRAHAM BALDWIN and JOHN MILLEDGE.

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,

Mr. DAYTON was conducted to the chair, from whence he made his acknowledgments to the House, as follows:

"Accept, gentlemen, my acknowledgments for the very flattering mark of approbation and confidence exhibited in this second call to the chair, by a vote of this House.

"Permit me, most earnestly, to request of you a continuance of that assistance and support, which were, upon all occasions, during the two preceding sessions, very liberally afforded to me; and, without which, all my exertions to maintain the order, and expedite the business of the House, must be, in a great degree, unsuccessful."

### TUESDAY, May 16.

Several other members, to wit: from New Jersey, JAMES SCHUREMAN and THOMAS SINNICKSON; from Virginia, JOHN TRIGG; and from South Carolina, THOMAS SUMPTER, appeared, produced their

credentials, were qualified, and took their seats in the House.

### ***President's Speech.***

It being near twelve o'clock, the SPEAKER observed that it had been usual on similar occasions to the present, to send a message to the Senate, to inform them that the House is now ready to attend them in receiving the communication of the PRESIDENT, agreeably to his appointment: such a message was agreed to, and sent accordingly.

Soon after, the members of the Senate entered, and took the seats assigned them; and a little after twelve, the PRESIDENT OF THE UNITED STATES entered, and took the chair of the SPEAKER, (which he vacated on the entrance of the Senate, the President and Clerk of the Senate being placed on the right hand of the chair, and the Speaker of the House of Representatives and the Clerk on the left.) After sitting a moment, he rose and delivered the following Speech. [See Senate proceedings, *ante*.]

Having concluded his Speech, after presenting a copy of it to the President of the Senate, and another to the Speaker of the House of Representatives, the President retired, as did also the members of the Senate; and the Speaker having resumed his chair, he read the Speech: after which, on motion, it was ordered to be committed to a Committee of the Whole to-morrow.

### **WEDNESDAY, May 17.**

Several other members, to wit: from New Hampshire, WILLIAM GORDON and JEREMIAH SMITH; from Pennsylvania, ANDREW GREGG; appeared, produced their credentials, were qualified, and took their seats.

### ***The President's Speech.***

The House then went into a Committee of the Whole, Mr. DENT in the chair, on the President's Speech. It was read by the Clerk.

Mr. CRAIK then moved a resolution, which, he observed, was merely a matter of form, as there had been one to the same effect, on every similar occasion. It was, "that it is the opinion of this committee, that a respectful Address should be presented to the President in answer to his Speech to both Houses of Congress, containing assurances, that this House will take into consideration the various and important matters recommended to their consideration." The committee agreed to the resolution. They rose, and it immediately passed the House in the common form.

On motion, it was *Ordered*, That a committee be appointed to prepare an Answer to the Speech.

Mr. VENABLE, Mr. KITTEA, Mr. FREEMAN, Mr. RUTLEDGE, and Mr. GRISWOLD, were nominated to report the Answer.

### **FRIDAY, May 19.**

RICHARD BRENT, from Virginia, appeared, produced his credentials, was qualified, and took his seat.

### ***Documents Referred to in the President's Speech.***

The SPEAKER informed the House that he had received a communication from the Department of State, containing sundry documents referred to by the President in his Speech to both Houses, numbered from 1 to 18. He proceeded to read No. 1, viz:

1. A letter from General Pinckney to the Secretary of State, dated Paris, December 20, 1796, giving an account of his arrival at Bordeaux; of his journey from thence to Paris, in which, from the badness of the roads, he broke three wheels of his carriage; of the ill treatment he received from M. Delacroix, &c. He remarks, that it is not surprising that the French Republic have refused to receive him, since they have dismissed no less than thirteen foreign Ministers; and since they have been led to believe by a late emigrant, that the United States was of no greater consequence to them than the Republics of Genoa or Geneva. He also mentions, that it seemed to be the opinion in France, that much depended on the election of the President, as one of the candidates was considered the friend of England, the other as devoted to France. The people of France, he observes, have been greatly deceived, with respect to the United States, by misrepresentation, being led to believe that the people and Government have different views; but, adds he, any attempt to divide the people from the Government, ought to be to the people of the United States, the signal for rallying. Gen. Pinckney several times mentions Mr. Monroe in this letter with great respect; and says that before his arrival the Directory had been very cool towards him, but, since that time, they had renewed their civilities to him.

2. Is a report of Major General Mountflorencia to General Pinckney, dated December 18, 1796, on the subject of American vessels brought prizes into the ports of France.

3. Extract of a letter from Gen. Pinckney to the Secretary of State, dated Paris, January 6, 1797, in which he mentions the distressed situation of American citizens, arriving in the ports of France, who were immediately thrown into prison, and could not be released, until an order was got from the American Minister, countersigned by the French Minister of Foreign Affairs; and no



Minister being acknowledged there at present, no relief could be afforded. He, however, applied to M. Delacroix on their behalf, by means of the secretary, Major Rutledge, and got them attended to through the Minister of General Police. General Pinckney gives a further account of conversations which passed between his secretary and M. Delacroix, on the subject of his quitting Paris, in which he told him he must do so, or be liable to the operation of the police laws; but refused to commit his orders to writing. He mentions Barras's answer to Monroe's address as a curious production; but says it was not particularly calculated as an answer to what was said by Mr. Monroe, as he had it prepared, and was unacquainted with what would be said by Mr. Monroe.

4. Extract of a letter from Gen. Pinckney to the Secretary of State, dated Amsterdam, February 18, informing him, that, having had official notice to quit the French Republic, he had gone to Amsterdam.

5. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 5, in which he observes, that before he left Paris, it was rumored that the Dutch were determined to treat American vessels in the same manner as the French had done. He now believes that the French wished them to do so, as he had lately received intelligence that the Dutch had objected to do this, alleging that it would be a great injury to them, as they should then lose their trade with this country, and if so, they would be deprived of furnishing that support to the French which they then gave them. France acquiesced because she saw it was her interest; and having 25,000 troops in Batavia, it was generally known that they could do what they pleased with that country. The General adds, with detestation, that there are American citizens who fit out privateers to cruise against the trade of this country.

6. Extract of a letter from Major General Mountflorencia to General Pinckney, dated Paris, February 14, mentioning the capture of a vessel from Boston, and another from Baltimore, by an American citizen on board a privateer: adding, that American citizens of this class are continually wishing for more rigorous laws against American commerce.

7. Extract of a letter from the same to the same, dated Paris, February 21, giving an account of two more American vessels being brought into L'Orient by the same man, and of another vessel taken by a French privateer.

8. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 8, mentioning the capture of several American vessels; he also speaks of the disagreeableness of his situation; and was of opinion that the new third of the French Councils would determine whether this country and France were to remain at peace or go to war. Though the former was desirable, he wished the measures of our Government to be firm.

9. Speech of Barras, President of the French Directory, on Mr. Monroe's recall.

10. The decree of the Executive Directory of March 2, relative to the seizure of American vessels.

11. Extract of a letter from John Quincy Adams, Esq., Minister Resident of the United States, near the Batavian Republic, to the Secretary of State, dated at the Hague, November 4, 1796, giving an account of the disposition of the people of that country towards this, which he states to be friendly; and this he attributes to its being their interest to be so. This country, he remarks, is the only quarter from which they receive regular payments. He adds, however, that they have no will in opposition to the French Government.

12. Extract of a letter from the Committee of Foreign Relations of the Batavian Republic, to the above Minister, dated September 27, 1796, making it appear very desirable that the United States should join them in their common cause against Great Britain, reminding him of the many services which they had rendered to this country.

13. Extract of a letter from John Quincy Adams in answer to the above, wherein he says he shall not omit to forward their letter to this country.

14. Extract of a letter from John Quincy Adams to the Secretary of State, dated Hague, February 17, 1797, representing the French Republic as paying as little attention to other neutral powers as to the United States. He alludes to their conduct towards Hamburg, Bremen, Copenhagen, &c.

15. Extract of a letter from Rufus King, Esq., to the Secretary of State, dated London, March 12, 1797, to the same effect.

16. A letter from the Minister of Spain, resident in Philadelphia, to the Secretary of State, dated May 6, 1797, complaining of the injurious operation of the British Treaty against Spain, in three respects, viz: as it destroys the doctrine of free ships making free goods; as it makes certain articles contraband of war, which in former treaties were not considered so; and as it gives to Great Britain a right to navigate the Mississippi, which that Minister insists belonged not to us to give, as it belonged wholly to Spain before it gave the right to the United States, by the late treaty, to navigate that river. He concludes his letter with saying, that the King of Spain is desirous of harmony between the two countries, and relies upon the equity of his complaints for satisfaction.

17. A letter from the Secretary of State to the Spanish Minister, in answer to the above; in which he acknowledges that the treaty lately concluded between the two countries had proved satisfactory to the United States, as it put an end to a dispute which had existed for many years respecting the navigation of the Mississippi, and also as it afforded satisfaction to our mercantile citizens for the capture of our ships and cargoes. All these, he allowed, were acts of substantial justice; but all the other stipulations were wholly voluntary, and perfectly reciprocal. With respect to the three articles of complaint respecting the British Treaty, he justified the

stipulations as being just and consistent, and such as this country had a right to enter into.

18. A letter from General Pinckney to the Secretary of State, dated Paris, February 1, stating that the day after the arrival of the news of Buonaparte's successes in Italy, he received a letter from M. Delacroix, directing him to leave Paris. General Pinckney concludes this letter with observing, that the French seem to speak of this country as if it were indebted to them for independence, and not to any exertions of our own. Our treaty with Great Britain is execrated; they wish us to have no connection with that country; they wish to destroy the trade of Great Britain, and they look upon us as her best customer.

The whole of these documents having been read, on motion, they were committed to the Committee of the Whole on the state of the Union, and 500 copies ordered to be printed.

### **MONDAY, May 22.**

JAMES A. BAYARD, from Delaware, appeared, produced his credentials, was qualified, and took his seat.

#### ***Answer to President's Speech.***

On motion, the House resolved itself into a Committee of the Whole, Mr. DENT in the chair, on the Answer reported to the President's Speech, which was read by the Clerk, as follows:

The committee to whom it was referred to prepare an Answer to the Speech of the President of the United States, communicated to both Houses of Congress, on Tuesday, the 16th May, 1797, report the following:

*To the President of the United States:*

SIR: The interesting detail of those events which have rendered the convention of Congress at this time indispensable, (communicated in your Speech to both Houses,) has excited in us the strongest emotions. Whilst we regret the occasion, we cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called.

We have constantly hoped that the nations of Europe, whilst desolated by foreign wars, or convulsed by intestine divisions, would have left the United States to enjoy that peace and tranquillity to which the impartial conduct of our Government has entitled us; and it is now with extreme regret we find the measures of the French Republic tending to endanger a situation so desirable and interesting to our country.

Upon this occasion, we feel it our duty to express, in the most explicit manner, the sensations which the present crisis has excited, and to assure you of our zealous co-operation in those measures which may appear necessary for our security or peace.

Although the first and most ardent wish of our hearts is that peace may be maintained with the French Republic and with all the world, yet we can never surrender those rights which belong to us as a nation; and whilst we view with satisfaction the wisdom, dignity, and moderation, which have marked the measures of the Supreme Executive of our country, in its attempts to remove, by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its Minister. No attempts to wound our rights as a sovereign State will escape the notice of our constituents: they will be felt with indignation, and repelled with that decision which shall convince the world that we are not a degraded people; that we can never submit to the demands of a foreign power without examination, and without discussion.

Knowing, as we do, the confidence reposed by the people of the United States in their Government, we cannot hesitate in expressing our indignation at the sentiments disclosed by the President of the Executive Directory of France, in his Speech to the Minister of the United States. Such sentiments serve to discover the imperfect knowledge which France possesses of the real opinions of our constituents. An attempt to separate the people of the United States from their Government, is an attempt to separate them from themselves; and although foreigners who know not the genius of our country may have conceived the project, and foreign emissaries may attempt the execution, yet the united efforts of our fellow-citizens will convince the world of its impracticability.

Happy would it have been, if the transactions disclosed in your communication had never taken place, or that they could have been concealed. Sensibly, however, as we feel the wound which has been inflicted, we think with you, that neither the honor nor the interest of the United States forbid the repetition of advances for preserving peace; and we are happy to learn that fresh attempts at negotiation will be commenced; nor can we too strongly express our sincere desires that an accommodation may take place, on terms compatible with the rights, interest, and honor of our nation. Fully, however, impressed with the uncertainty of the result,

we shall prepare to meet with fortitude any unfavorable events which may occur, and to extricate ourselves from the consequences, with all the skill we possess, and all the efforts in our power. Believing with you that the conduct of the Government has been just and impartial to foreign nations; that the laws for the preservation of peace have been proper, and that they have been fairly executed, the Representatives of the People do not hesitate to declare that they will give their most cordial support to the execution of principles so deliberately and uprightly established.

The many interesting subjects which you have recommended to our consideration, and which are so strongly enforced by this momentous occasion, will receive every attention which their importance demands; and we trust, that by the decided and explicit conduct which will govern our deliberations, every insinuation will be repelled which is derogatory to the honor and independence of our country.

Permit us, in offering this Address, to express our satisfaction at your promotion to the first office in the Government, and our entire confidence that the pre-eminent talents and patriotism which have placed you in this distinguished situation, will enable you to discharge its various duties with satisfaction to yourself, and advantage to our common country.

The Clerk having finished reading the Answer, the Chairman proceeded to read it paragraph by paragraph. The three first paragraphs were read without any thing being said upon them; but, upon the fourth being read—

Mr. EVANS moved, that instead of "will be felt with *indignation*," should be inserted, "will be felt with *sensibility*," as a milder phrase; as he wished to avoid using expressions more harsh than was necessary.

Mr. NICHOLAS said, if his colleague would give him leave, he believed he had an amendment to offer, which would be proper to be offered before one he had moved, as he believed there was a rule in the House which forbids the striking out a clause after it had been amended; and if the amendment he should propose obtained, it might be necessary to strike out a part of that paragraph. It was his intention to move a new paragraph, to be inserted between the first and second. He believed it would be in order to do so.

The Chairman wished the proposition to be read.

Mr. NICHOLAS asked if it was not always in order to insert a new section.

The Chairman believed it was, provided it was not intended as a substitute for another.

Mr. NICHOLAS said he should candidly avow it to be his intention to insert several new sections. For the information of the committee, he would, therefore, read the whole, though he meant at present, to move only one.

The following are the propositions which Mr. N. read in his place; the first of which was under consideration:

After the first section insert:

"Although we are actuated by the utmost solicitude for the maintenance of peace with the French Republic, and with all the world, the rejection of our Minister and the manner of dismissing him from the territories of France, have excited our warmest sensibility; and, if followed by similar measures, and a refusal of all negotiation on the subject of our mutual complaints, will put an end to every friendly relation between the two countries; but we flatter ourselves that the Government of France only intended to suspend the ordinary diplomatic intercourse, and to bring into operation those extraordinary agencies which are in common use between nations, and which are confined in their intention to the great causes of difference. We therefore receive with the utmost satisfaction, your information that a fresh attempt at negotiation will be instituted; and we expect with confidence that a mutual spirit of conciliation, and a disposition on the part of the United States to place France on the footing of other countries, by removing the inequalities which may have arisen in the operation of our respective treaties with them will produce an accommodation compatible with the engagements rights, duties, and honor of the United States.

"We will consider the several subjects which you have recommended to our consideration, with the attention which their importance demands, and will zealously co-operate in those measures which shall appear necessary for our own security or peace.

"Whatever differences of opinion may have existed among the people of the United States, upon national subjects, we cannot believe that any serious expectation can be entertained of withdrawing the support of the people from their constitutional agents, and we should hope that the recollection of the miseries which she herself has suffered from a like interference, would prevent any such attempt by the Republic of France; but we explicitly declare for ourselves and our constituents that such an attempt would meet our highest indignation, and we will repel every unjust demand on the United States by foreign countries; that we will ever consider the humiliation of the Government as the greatest personal disgrace."

Mr. THATCHER observed, the gentleman from Virginia had read three or four paragraphs, in the form of amendments. He presumed he did not mean to add these, without striking out some part of the report. He wished him to say what part he meant to strike out, that they might see how the Answer would stand when amended in the way he proposed. If they stood together, they would be inconsistent.

Mr. GILES presumed it was the object of the committee to bring into view a comparison of ideas in some shape or other, and he thought the amendment proposed was calculated to produce this effect. If he understood the Answer as reported, it was predicated upon the principle of approving all the measures which had been taken by the Executive with respect to France, whilst the amendment avoided giving that approbation. The simple question was, which of the two grounds the House would take? He believed the best way of ascertaining this, would be to move to insert, and if the amendments were carried, to recommit the report, to be made conformable to them.

Mr. GALLATIN said, when an amendment was carried which affected other parts of a composition, it was not usual to strike out, but to recommit.

The Chairman having declared the motion to be in order,

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Mr. NICHOLAS said, the present crisis was, in his mind, the most serious and important which this country had known since the declaration of its independence; and it would depend much, perhaps, upon the Answer which they were about to return to the Speech of the President, whether we were to witness a similar scene of havoc and distress to that which was not yet forgotten; such as had been passed through upon an important occasion, but such as could be entered upon only as a last resource. The situation in which we stood with respect to France called for the most judicious proceeding; it was his wish to heal the breach, which was already too wide, by temperate, rather than widen it by irritating measures. He hoped, on this occasion, they should get rid of that irritation which injury naturally produced on the mind. He declared he felt for the insult which had been offered to Mr. Pinckney; and he felt more for him, from the dignity with which he had borne it, which had proved him a proper character for the embassy. He was sorry that it should have been thought necessary by the French Republic to refuse to acknowledge him as the Minister of this country; but he did not think it right to suffer this first impression to influence their proceedings upon this business. If the insults offered were a sufficient cause for war, let the subject be examined by itself, separate from all others; but, if it be our wish to proceed with negotiation, he thought it wisest and best to adopt a firm but moderate tone.

As he before observed, he felt for the situation of the gentleman employed by this country; he thought it was a trying one, and did great honor to himself, and he deserved the thanks of his country for the good temper with which he had sustained it; but Mr. N. confessed the subject did not strike him with all the force with which it seemed to have impressed the mind of that respectable character. He did not consider the insult offered to Government as going further than the ill-treatment which our Minister had received. He believed that the circumstances, which appeared in the papers laid before them, in some degree accounted for the conduct of the French Government. It appears that at first the Directory were willing to receive Mr. Pinckney, but when they saw his credentials they refused to acknowledge him. This circumstance, he said, seemed to give a character to the transaction which explained its meaning.

It will be recollected, said Mr. N., that since the cause, or imagined cause (let it be one or the other) of complaint against this country, that there has been an intercourse between the two Governments on this subject. It was to be expected that if there had been any intention in Government to have come to an adjustment of the difference between the two countries, our Minister would have been clothed with some power of accommodation. Mr. N. supposed that when the French Directory agreed to receive him, this was their opinion; but upon seeing his letters of credence, they found no such power was given or intended. [He read the object of his mission from the President's Speech, viz: "faithfully to represent," &c.]

If these, he said, were all the objects expressed in his letters of credence—and if there had been more, the President would doubtless have informed them of it—the matter perfectly justified the character he had given of it.

He made these observations, because he thought on an occasion like the present, the truth should be made to appear, and though an insult had been offered to this country, which could not fail to produce irritation, yet that irritation should stop short of the point where it would produce action, as he was certain any steps taken which might hazard the peace of the country, would not conduce to the welfare of its citizens.

There was a subject, he said, which seemed to have involved itself with this, and of which he should take some notice, viz: a charge against certain persons with being attached to the French cause. It might, perhaps, be the opinion of some members of that House, more particularly of strangers, that he was improperly influenced by party zeal in favor of the French, a zeal which it had been blazoned forth existed to an immoderate degree in this country. He had frequently heard insinuations of this sort, which he considered so groundless as to be worthy only of contempt; but when charges of this kind were made in the serious manner in which they were now brought forward, it was necessary to call for proof. Who, said he, is the man who has this proof? He knew of none. For his own part, he had no intercourse with the French but of the commonest kind. He wished those who possessed proofs of improper conduct of this kind, would come forward and show them—show who are the traitors of whom so much is said. He was not afraid of the impressions any such charges brought against him, might make upon his

constituents, or where he was known; indeed, he had not the arrogance to believe the charge was levelled against him, though he believed he was frequently charged with a too great attachment to the French cause.

When he first came into that House, he found the French embroiled with all their neighbors, who were endeavoring to tear them to pieces. He knew what had been the situation of this country when engaged in a similar cause, and was anxious for their success. Was there not cause for anxiety, when a nation, contending for the right of self-government, was thus attacked? Especially when it was well known, that if the powers engaged against France had proved successful, this country would have been their next object. Had they not, he asked, the strongest proofs (even the declarations of one of their Governors) that it was the intention of England to declare war against America, in case of the successful termination of the war against France? It redounded to the honor of the citizens of this country, he said, that they had never shown a disposition to embark in the present European war.

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The difference, Mr. N. said, between the Address reported, and the proposition he had brought forward was this: the former approved all the measures of the Executive, and the latter recommended an inquiry relative to the operation of the British Treaty. It was this question upon which the committee would decide, and it was of importance, he said, that they should weigh the causes of difference between us and the French Republic, and not decide that we are right, without examination, because, if, after being brought to hostility, we are obliged to retract, it would show our former folly and wantonness.

Mr. N. said he would inquire into the rights of France as they respected three principal subjects, which were more particularly causes of complaint between the two countries. These were, the right of our vessels carrying English goods, the article respecting contraband goods, and that respecting the carrying of provisions. He knew no better way to determine how far we could support those articles of the British Treaty, than by extracting the arguments of our own ministerial characters in support of these measures. With respect to the question of free ships making free goods, his impressions were very different from those of the Secretary of State. He says, with respect to the regulation of free ships making free goods, it is not changing a right under the law of nations; that it had never been pretended to be a right, and that our having agreed to it in one instance, and not in another, was no just cause of complaint by the French Government. He advocates this transaction in his letter to Mr. Adet last winter. Mr. N. said, he knew not what was the origin of the law of nations upon the subject; he knew not how it came into existence; it had never been settled by any convention of nations. Perhaps, however, the point now under consideration came as near to a fixed principle, as any other of what are called the laws of nations ever did, as only one nation in Europe could be excepted from the general understanding of it. Mr. Pickering, he thought, seemed not to have given full force to this circumstance, but seemed to have weakened the evidence. [He referred to what Mr. Pickering had said upon the subject.] It was Mr. Pickering's idea, that the stipulation of free ships making free goods, was a mere temporary provision; that it was not an article in the law of nations, but a new principle introduced by the contracting parties. In order to prove this was not the case, Mr. N. referred to the provisions entered into by the armed neutrality of the north of Europe; to a treaty between France and Spain; to a note from the Court of Denmark; and to the declaration of the United States themselves on the subject.

With respect to contraband articles, he had little to say. It was asserted that the articles stipulated in the British Treaty as contraband, were made so by the law of nations. Where the doctrine was found he could not say. It had been quoted from *Vattel*; this authority might be correct; but he never found any two writers on this subject agree as to this article. In a late publication on the law of nations (*Marten's*) he found it directly asserted that naval stores were not contraband. But he said, if the contrary were the law of nations, they were bound to extend the same privilege to France which they gave to England: they could not have one rule for the one nation, and a different one for the other.

The 18th article of the British Treaty, respecting the carrying of provisions, always struck him as a very important one. It had heretofore been contended that this article did not go to any provisions except such as were carrying to besieged or blockaded places; but he believed the British had constantly made it a pretence for seizing provisions going to France. Indeed, if he was not mistaken, the British Minister had publicly declared in the House of Commons, that the provisions on board the vessels intended for the Quiberon expedition had been supplied from what had been captured in American vessels.

Mr. N. contended that this was the opinion of the Executive of this country, as published in all the public papers, and of course known to the Government of France. In the letter of Mr. Jefferson to Mr. Pinckney in 1793, he declares that there is only one case in which provisions are contraband, and shows the necessity of a neutral nation observing the same rules towards all the powers at war. But, in the present case, the right was ceded during the present war.

It was an unfortunate circumstance against the neutrality of this country, to find a doctrine so differently applied at different times. It was a strong proof of the progress of the passions. It might be considered as a fraudulent thing, in one instance, to give up a right for a compensation to ourselves.

Mr. N. concluded with observing that he had gone over the subject, he feared, not without being considered tedious by the committee; but he felt himself greatly interested in the present decision. He believed any additional irritation in their measures would place peace out of our reach. He believed, therefore, it was their business to avoid it. He believed it would be for the

honor and happiness of the country to do so.

Mr. W. SMITH said, as the gentleman last up had taken a wide range of argument, he must excuse him if he confined himself, in his reply, to those parts of his observations only which appeared to him essentially to relate to the subject under consideration.

He believed the question was, whether they should alter the report in the manner proposed; that is, whether they should strike out words which expressed the sensibility of this House at the unprovoked insults offered by the French Republic to our Government and country, or adopt the gentleman's amendment, which he read.

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If they agreed to this amendment, they must necessarily expect from the French Republic fresh insult and aggression; for it seemed to admit that hitherto no insult had been intended.

The amendment might be divided, Mr. S. said, into two parts. The first went to vindicate the French from any intentional insults towards this country: it even held out an idea that the Executive ought to offer some concessions to France, and even designated the kind of concession. He should, therefore, without taking notice of what the gentleman had said about the political parties of this country, or what he had said respecting himself personally, confine his observations to the points in question.

The first point was, whether the conduct of France was justifiable in rejecting our Minister, and sending him from the Republic in the manner they had done?

He thought the committee had abundant materials before them completely to refute the first proposition; and he was surprised, knowing that these documents were in the hands of every member, that the gentleman from Virginia could expect to impress their minds with the idea that no indignity whatever had been offered by the French Government to this country in that transaction.

Mr. S. said, that it appeared most clearly that the French Directory intended to treat this Government with marked indignity; for though the gentleman from Virginia suggested an opinion that their refusal to receive Mr. Pinckney was owing altogether to his not being invested with extraordinary powers, this was evidently not the case, as the Directory had been well informed as to the character in which Mr. Pinckney came, before they received his letters of credence, as appears by the letter of M. Delacroix to Mr. Monroe, styling Mr. Pinckney his successor, and by other documents communicated by the President, (which he read.) There was no doubt, then, with respect to the Directory being well acquainted with the character in which Mr. Pinckney went to France, viz: as Minister Plenipotentiary or ordinary Minister; but, after keeping him in suspense near two months, on the day after the news arrived of Bonaparte's successes in Italy, he was ordered, by a peremptory mandate, in writing, to leave the French Republic. This mandate was accompanied by a circumstance which was certainly intended to convey an insult; it was addressed to him as an Anglo-American, a term, it is true, they sometimes used to distinguish the inhabitants of the United States from those of the West India Islands, but, in his opinion, here evidently designed as a term of reproach, as he believed no other similar instance could be mentioned. Upon this circumstance, however, he laid no stress; the other indignities which our Minister had received were too great to require any weight to be given to this circumstance.

The gentleman from Virginia had confined the complaints of the French Government to three articles of the British Treaty; though, if the committee referred to the letter of Mr. Delacroix, it would be found that they did not confine them within so narrow a compass. They complain, first, of the inexecution of treaties; there are several points of complaint relative to that head. 2d. Complaints against the decrees of our Federal Courts. 3d. Against the law of June, 1794; and, 4th. Against the Treaty with Great Britain. Yet the gentleman confines himself altogether to the latter. And really he did not expect at this time of day, after the subject had been fully discussed, and determined, and the objections refuted over and over again, that any gentleman would have endeavored to revive and prove their complaints on this head well founded. The three articles were: 1st, that free ships did not make free goods; 2d, the contraband article; and 3d, the provision article.

1. The stipulation with respect to neutral vessels not making neutral goods in the British Treaty, was not contrary to the law of nations; it only provided that the law of nations was to be carried into effect in the manner most convenient for the United States. But this doctrine, he said, was no new thing. It had been acknowledged most explicitly by Mr. Jefferson, Secretary of State, in July, 1793, and was so declared to the Minister of France; yet no objection was made to it until the British Treaty was ratified, though long previous thereto French property was captured on board our vessels. Mr. Jefferson, writing on this subject to the French Minister, said: "You have no shadow of complaint;" the thing was so perfectly clear and well understood by the law of nations. This happened as long ago as July or August, 1793. But two years afterwards, when the British Treaty was promulgated, the whole country was thrown into a flame by admitting this very same doctrine. France herself had always acted under this law of nations, when not restrained by treaty: in *Valin's* Ordinances of France this clearly appears. The armed neutrality was confined to the then existing war; Russia herself, the creator of the armed neutrality, entered into a compact with England, in 1793, expressly contravening its principles. The principle was then not established by our Treaty with England; but such being the acknowledged law of nations, it was merely stipulated that it should be exercised in the manner least injurious to us.

2. The next article of complaint was with respect to contraband goods. If gentlemen will consult the law of nations, they will find that the articles mentioned in the British Treaty are by the law of nations contraband articles. They will find that in all the treaties with Denmark and Sweden,

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Great Britain had made the same stipulation. Indeed, the gentleman had acknowledged that it was so stated by some writers on the law of nations; but he wished to derogate from the authority of those writers, in the same way as Mr. Genet, in his correspondence with Mr. Jefferson, had called them "worm-eaten folios and musty aphorisms;" to *Vattel* might be added *Valin's* Ordinances, a very respectable work in France. How, then, can the gentleman with truth say that we have deviated from the law of nations?

3. The last point which the gentleman took notice of was the provision article. There was no doubt that this Government would never allow provisions to be deemed contraband, except when going to a besieged or blockaded port. Though he made this declaration, yet it was but candid to acknowledge that this was stated by *Vattel* to be the law of nations. [He read an extract from *Vattel*.]

When this was stated by Lord Grenville to Mr. Pinckney, our then Minister in London, Mr. Pinckney acknowledged it to be so stated in *Vattel*, but very ingeniously argued that France could not be considered as in the situation mentioned in *Vattel*, since provisions were cheaper there than they were in England, and therefore the case did not apply. When our Envoy was sent to London, both parties were tenacious on this ground. Our Minister was unwilling to agree to this construction of the law of nations; but the British Minister insisted upon it, and if there had not been some compromise, the negotiation must have been broken off, and a war probably ensued. The result was, therefore, that, without admitting it to be the law of nations, it was agreed that where provisions were contraband by the law of nations, they should be paid for, but not confiscated, as the law of nations (admitting that construction) would have authorized. Therefore some advantage was secured to France, for if Great Britain had confiscated our vessels going to France with provisions, it would certainly have damped the ardor of our citizens employed in that commerce; but under this regulation our merchants were certain of being paid for their cargoes, whether they arrived in France or were carried into England. These were the three grounds of objection which the gentleman from Virginia had stated as grounds of complaint by the French against the British Treaty.

Before he went further, he would observe that, admitting (which he did not admit) that there had been solid grounds of objection against the British Treaty, before it was ratified, yet they ought now to be closed. It had received a full discussion at the time; it had been carried into effect, was become the law of the land, and was generally approved of by the country. Why, then, endeavor to stir up the feelings of the public against it by alleging it to be just cause of complaint? If the committee wanted any proof of the approbation which that instrument had received, he thought it might be gathered from the general approbation which had been given of the administration of the late President on his retirement from office, in doing which the people had doubtless taken into view the whole of his conduct. Nor did he think the people had shown any hostility to the Treaty in their late election of members to that House. Indeed, he believed that the approbation which the Treaty received increased in proportion as the subject came to be understood.

Admitting further, that the Treaty had changed the existing state of things between Great Britain and France, by having granted commercial favors to Great Britain; by the 2d article of our treaty with France, the same favors would immediately attach to France, so that she could have no reason to complain on that ground. Indeed France had herself new modified the treaty between that country and this, and had taken to herself what she deemed to be the favors granted to Great Britain. [Mr. S. read the decree on this subject of 2d March last.]

Mr. S. said, he believed he had examined all the observations of the gentleman from Virginia, relative to the Treaty, which were essential to the subject under consideration. He did not wish to go much farther on the present occasion, because he agreed with him, that it was proper they should keep themselves as cool and calm as the nature of the case would admit; but he thought whilst so much deference was paid to the feelings of France, some respect ought to be paid to the feelings of America. He hoped the people of America would retain a proper respect and consideration for their national character; and however earnestly he wished that the differences subsisting between the two countries might be amicably settled, yet, he trusted that our national dignity would never be at so low an ebb as to submit to the insults and indignities of any nation whatever. In saying this, he expressed his hearty wish to keep the door of negotiation with France unclosed; but at the same time he strongly recommended to take every necessary step to place us in a situation to defend ourselves, provided she should still persist in her haughty demeanor.

Mr. S. said, as he knew indecent and harsh language always recoiled upon those who used it, he did not wish to adopt it; but, at the same time, it was due to ourselves to express our feelings with a proper degree of strength and spirit. He was not in the habit of quoting any thing from M. Genet, but there was one expression of his which he thought contained good advice, "all this accommodation and humility, all this condescension attains no end."

After the gentleman from Virginia had dwelt sufficiently upon the danger of irritating the French, he had emphatically called upon us to recollect our "weakness." It might have been as well if he had left that to have been discovered from another quarter. He hoped we had sufficient confidence in the means of defence which we possessed, if driven to the last resort; and he believed if there was any one more certain way of provoking war than another, it was that of proclaiming our own weakness.

He hoped such a language would now be spoken as would make known to the French Government that the Government and people of this country were one, and that they would repel any attempt to gain an influence over our Councils and Government. The gentleman had said that

there did not appear to be any design of this kind, and had endeavored to do away what was stated as the opinion in France, in General Pinckney's letter. He did not mean to rest this altogether upon the reports of an emigrant, whom General Pinckney mentions as having represented this country divided, and of no greater consequence than Genoa or Geneva, but he took the whole information into view. [He read the extract relative to this subject.]

It was evident, Mr. S. said, from this information from France, that an opinion had been industriously circulated there that the Government and people of this country were divided; that the Executive was corrupt and did not pursue the interests of the people; and that they might, by perseverance, overturn the Administration, and introduce a new order of things. Was not such an opinion of things, he asked, calculated to induce France to believe that she might make her own terms with us? It was well known what the French wished, and it was time to declare it plainly. His opinion was that they designed to ruin the commerce of Great Britain through us. This was evident. They talk of the British Treaty; but they suffered it to lie dormant for near twelve months, without complaining about it. Why were they silent till within a few weeks before the election of our President? Why did they commit spoliations upon our commerce long before the British Treaty was ever dreamt of? Their first decree, directing spoliations of our property, and the capture of our provision ships, was on the 9th of May, 1793, a month before the provision order of Great Britain, which was dated June 8, 1793; and why have they, from that time to this, been committing spoliations on our commerce? The British Treaty was published in Paris in August, 1795; a year after, in July, 1796, they determine to treat us in the same way that we suffer other nations to treat us, and this decree was not made known to our Government till the October following, a few weeks before the election of President.

But this was not all; the French had pursued similar measures towards all the other neutral powers. Sweden, in consequence, had no Minister in their country, and was on the eve of a rupture. The intention of the French evidently was, to compel all the neutral powers to destroy the commerce of Great Britain; but he trusted this country had more spirit than to suffer herself to be thus forced to give up her commerce with Great Britain; he trusted they would spurn any such idea.

Mr. S. hoped the observations which he had made would not be construed into a wish to see the United States and France involved in a war. He had no objection to such measures being taken for preserving peace between the two countries as should be consistent with national honor. It was a delicate thing for them to suggest what the Executive ought to do. It was out of their province to direct him. The Executive had various considerations to take into view. We had injuries to complain of against France, for the spoliations committed upon our commerce. If the Executive conceive we have a right to redress, that subject will of course constitute a part of our Envoy's instructions. Would it then be proper, said he, for this House to interfere with the Executive, to obtrude its opinion and say, "You must give up this point; we take upon us (without any authority by the constitution) to give *carte blanche* to France, without any indemnification or redress."

The gentleman says it is the object of the amendment on the table to recommend to the Executive to remove any inequalities in the treaties; that was alone sufficient to vote it out.

There had been no period since the Revolution which had so powerfully called on Americans for that fortitude and wisdom which they knew so well how to display in great and solemn emergencies. It was not his intention to offend any one by stating the question in such strong terms; but he was persuaded that when the present situation of our affairs with respect to France was well understood, it would be found that to acquiesce in her present demands was virtually and essentially to surrender our self-government and independence.

## **TUESDAY, May 23.**

Two other members, to wit: from North Carolina, JOSEPH McDOWELL, and from Virginia, JOSIAH PARKER, appeared, produced their credentials, were qualified, and took their seats.

### ***Answer to the Presidents Speech.***

The House then went into a Committee of the Whole, Mr. DENT in the chair, on the amendment of Mr. NICHOLAS to the report of the select committee, in answer to the President's Speech.

Mr. FREEMAN first rose. He observed, that in his observations on the subject before the committee, amid the conflicting opinions of gentlemen whom he respected, he did not mean to express his own either with confidence or with zeal. Though one of the committee that had reported the Address, he could not approve it *in toto*. He had two principal objections to it. First, to that part which went to an unequivocal approbation of all the measures of the Executive respecting our foreign relations; and, secondly, to that part which contained expressions of resentment and indignation towards France. In framing an answer to the President, he conceived the committee should have refrained from expressing an unqualified approbation of all the measures of the Executive. To omit it would not imply censure. By introducing it, it forced all those who entertain even doubts of the propriety of any one Executive measure to vote against the Address.

The principal causes of the irritation on the part of France, insisted upon in the Answer, were the rejection of our Minister, and the sentiments contained in the Speech of the President of the Directory to our late Minister. If gentlemen would look into the documents laid before the House by the President, he was confident they would find the true reason for the refusal to receive our



Minister. He came only as an ordinary Minister, without any power to propose such modifications as might lead to an accommodation, and when the Directory discovered this from his credentials they refused him. In answer to this, it had been urged that M. Delacroix, Minister of Foreign Affairs, from the first, well knew that Mr. Pinckney was only the successor to Mr. Monroe, and that his coming in that quality was not the reason why the French refused to receive him. Mr. F. referred to the documents which had been laid before the House on this subject, from which it appeared that the secretary of M. Delacroix had suggested a reason for the apparent change of opinion on the subject of receiving Mr. Pinckney. Suppose, the secretary observed, that M. Delacroix had made a mistake at first in the intentions of the Directory, was that mistake to be binding on the Directory?

He did not wish to be understood to consider the conduct of the French as perfectly justifiable; but he could not conceive that it was such as to justify, on our part, irritating or violent measures. As to the Speech of the President of the Directory, he could not say much on it, he did not perfectly understand it. As far as he did, he considered it a childish gasconade, not to be imitated, and below resentment. [He read part of it]. It was certainly arrogant in him to say that we owed our liberty to their exertions. But if the French could derive any satisfaction from such vain boasting he had no objection to their enjoying it. There was another part of the Speech that had been considered as much more obnoxious. It was said to breathe a design to separate the people here from their Government. The part alluded to was no more than an expression of affection for the people; he could see nothing in this irritating or insulting; it was a mode of expression which they used as to themselves, and by which they wished to convey their affection for the whole nation. The term people, certainly included the Government, and could not with propriety, therefore, be said to separate the people from it.

An idea had been thrown out by the gentleman from South Carolina, that the people generally approved of the British Treaty; he inferred it from the fate of the late elections. For his part he could see no great alteration to have been produced by the late elections; and if there had been it would not have been an evidence to his mind that the people approved of the British Treaty. He believed, for his part, that the opinions of a great majority of the people had been uniformly averse to it; and those who advocated it were by this time nearly sick of it. It was true a spirit was aroused by the cry of war at the time the subject of appropriation was pending, that produced petitions, not approving however of the stipulations of the treaty, but asking that it might be carried into effect since it had reached so late a stage.

Another engine, he observed, had been wielded with singular dexterity. Much had been effected by the use, or rather abuse, of the terms federalist and anti-federalist, federalism and anti-federalism. When the Federal Constitution was submitted to the people, to approve it, and endeavor to procure its ratification, it was federalism. Afterwards, when the Government was organized and in operation, to approve every measure of the Executive and support every proposition from the Secretary of the Treasury, was federalism; and those who entertained even doubts of their propriety, though they had been instrumental in procuring the adoption of the constitution, were called anti-federalists. In 1794 to be opposed to Madison's propositions, the resolution for the sequestration of the British debts, and the resolution prohibiting all intercourse with Great Britain, was federalism. In 1796 it was federalism to advocate the British Treaty; and now he presumed that it would be federalism to support the report of the committee and hightoned measures with respect to France. In 1793 he acknowledged that federalism assumed a very different attitude from what it had on the present occasion; it was then the attitude of meekness, of humanity, and supplication. The men who exclusively styled themselves federalists, could only deplore with unavailing sighs the impotence of their country, and throw it upon the benevolence and magnanimity of the British Monarch. Their perturbed imaginations could even then see our cities sacked and burnt, and our citizens slaughtered. On the frontier they heard the war-hoop, and the groans of helpless women and children, the tortured victims of savage vengeance. Now we are at once risen from youth to manhood, and are ready to meet the haughty Republic of France animated with enthusiasm and flushed with victory. Mr. F. observed, that he rejoiced however that gentlemen adopted a bolder language on this than had been used on the former occasion. He felt his full shame in the national degradation of that moment. He was in favor of firm language; but he would distinguish between the language of manly firmness and that of childish petulance or ridiculous bombast.

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Mr. GRISWOLD said, if he understood the state of the business, the question was, whether the committee would agree to the amendment proposed by the gentleman from Virginia? If it contained sentiments accordant to the feelings of the committee, it would of course be adopted; if not, it would doubtless be rejected.

He supposed it would form an objection to this amendment, if it were found to be inconsistent with the other parts of the report. He believed this to be the case; but he would not make objections to it on this ground. He would examine the paragraph itself, and see whether it contained sentiments in unison with those of the committee. He believed this would not be found to be the case, and that when the committee had taken a view of it, it would be rejected.

If he understood the proposition, it contained three distinct principles, viz:

1. To make a new apology for the conduct of the French Government towards this country.
2. That the House of Representatives shall interfere with and dictate to the Executive in respect to what concessions ought to be made to the French Republic.
3. It depends upon the spirit of conciliation on the part of France for an adjustment of the differences existing between the two Governments.

The apology, he said, was a new one, and one which the French had not thought of making for themselves; for they tell us, as it appears from Mr. Pinckney's letter to the Secretary of State, "they will not acknowledge or receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it." We say (or rather the gentleman from Virginia says in his amendment) they rejected our Minister because he had not power enough; therefore, for the apology now made for the French Government they were indebted to the ingenuity of the mover.

Now, said Mr. G., I do not wish that the House of Representatives should undertake to make apologies for the conduct of the French Government towards this. It was true they needed apology; but he did not think it was proper for us to make it for them. Further, as this apology was not made by themselves, but wholly different from their own assertions, it was not likely that they would fall into it. They say, "Permit us to sell our privateers in your ports; annul treaties and repeal laws, and then we will tell you on what terms we will receive Mr. Pinckney, and peace from you." After this declaration, he did not think it would be proper to attempt any new apology for them. He therefore supposed, that so far as this proposition offered a new apology for the French Republic, it could not meet with the approbation of the committee.

The next proposition contained in the amendment was, that the House of Representatives should interfere with the Executive power of this country, and dictate to it what sort of steps should be taken towards reconciling the French Government. He asked whether this was consonant to the principles of the constitution? Whether the constitution had not delegated the power of making treaties to other branches of the Government? He believed it had, and that therefore we had no right to dictate to the Executive what should or what should not be done with respect to present disputes with the French Government. On this ground, therefore, he considered it as improper.

In the next place, the amendment contained another proposition, viz: that we rely upon a spirit of conciliation on the part of France for an accommodation of differences. And, said Mr. G., do we really rely upon this? Have we such evidence as should incline us to rely upon it? Have the French Government expressed any inclination to settle the differences subsisting between them and us? The communications which were received from the Supreme Executive, do not bear this complexion. The communication from the French Minister to this Executive does not wear it. Our proclamations are called *insidious*; our Minister is insulted and rejected; and attempts are made to divide the people of this country from their Government. Is this conciliation? Does it not rather appear as if they intended to alienate the affections of the people from their Government, in order to effect their own views? He was convinced it did, and that they could not rely upon a spirit of conciliation in them. For his own part, he did not rely upon it; he relied upon this country being able to convince the world that we are not a divided people; that we will not willingly abandon our Government. When the French shall be convinced of this, they will not treat us with indignity. Therefore, he trusted, as the proposed amendment did not contain such sentiments as were likely to accord with the feelings of the committee, that it would be rejected.

Mr. GILES said the subject under discussion was a very important one. It appeared to him, from various documents, that all the steps taken by the Executive had a view to an eventual appeal to arms, which it was his wish (as it was the wish of many in that House) to avoid. It was proper, therefore, that the clashing opinions should be discussed. If the proposition brought forward for this purpose was not sufficiently simple and explicit, he wished it might be made more so. For he believed the question to be, whether the committee be prepared to pass a vote, approving of the whole course of the conduct of the Executive, or whether France should be put upon the same ground with the other belligerent powers. That she is at present upon the same footing, no gentleman had attempted to show. Gentlemen who wish to get rid of this ground, say this is a thing which should be left to the Executive. He thought it was, however, a proper subject for their discussion; for whatever power the Executive had with respect to making of treaties, that House had the means of checking that power. Suppose, said Mr. G., I were on this occasion called upon to tax my land, was it not necessary I should inquire into the subject, and endeavor to avoid a measure which would probably prove a serious drain upon the blood and treasure of the country? He was unwilling to have his land taxed for the purpose of supporting a war on this principle. It was evident that the French took one ground in this dispute, and the United States another, and whilst this continued to be the case, no negotiation would have any effect. Indeed, said he, it is war; and if the measure proposed was taken, we make war if we do not declare it.

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Mr. BALDWIN said, he had taken the liberty to express his concern several years ago, that this custom of answering the PRESIDENT'S Speech, which was but a mere piece of public ceremony, should call up and demand expressions of opinion on all the important business of the session, while the members were yet standing with their hats in their hands, in the attitude of receiving the communications, and had not yet read or opened the papers which were the ground of their being called together. It applied very strongly in this instance, as this was a new Congress, and a greater proportion than common of new members; he thought it an unfavorable attitude in which to be hurried into the very midst of things, and to anticipate business of such vast importance to the country, before they had time to attend to the information which had been submitted to them. He trusted some fit occasion would before long be found to disencumber themselves of a ceremony, new in this country, which tended only to evil and to increasing embarrassments. He observed that it was under the influence of these impressions, he had made it a rule to himself, for many sessions, to vote for those amendments and those propositions in the Address which were most delphic and ambiguous, and while they were respectful to the PRESIDENT, left the House unpledged and open to take up the business of the session as it presented itself in its ordinary

course. It was on this ground he should vote for the amendment now under consideration.

Mr. RUTLEDGE said, when the report of the committee should be before them, he should have some remarks to make upon it; but at present he should offer only a few observations upon the proposed amendment.

He said he had strong objections to the amendment; but one so strong that he need not urge any other: it was, that in agreeing to it they should dictate to the Executive, which he believed would be infringing upon the Executive power. As it was his peculiar duty to give instructions to Ministers, it would be improper in them to say what should be the instructions given to a Minister; but if it were not so, he should not vote for those of the gentleman from Virginia.

In the instructions of a Minister, it was usual to comprise a variety of propositions. Certain things were first to be proposed; if these could not be obtained, he was instructed to come forward with something else, and if this could not be got, he went on to his ultimatum. But, if the proposition of the gentleman from Virginia were to obtain, his instructions would be publicly known. In vain would it be for him to offer this or that, they will say the House of Representatives has directed you what to do, and we will not agree to any thing else. This would be contrary to all diplomatic proceedings; for that reason he should be opposed to the House saying what should be his instructions. Indeed, if it were usual, he should be against it in this instance, as he believed it would encourage an extravagant demand. What, said he, have they said to our Minister—or rather to the person who was formerly our Minister, but who then had no power? They told him to go away; they had nothing to say to him: they would receive no more Ministers from the United States until their grievances were redressed. This country is charged with countenancing an inequality of treaties. The French have said, redress our grievances in a certain way. But, said Mr. R., if we do this, we shall put ourselves under the dominion of a foreign power, and shall have to ask a foreign country what we shall do. This was a situation into which we must not fall without a struggle.

Mr. SITGREAVES said, though he had wished to have taken a little more time before he had troubled the committee with his observations; yet, as there now appeared an interval, he should take the opportunity of occupying it for a few minutes.

He should not answer the observations of the gentleman from Georgia, with respect to the style of the Answer reported; but he believed that those gentlemen who would look at it without a perverted vision, would not discover the faults in it which that gentleman had discovered. He thought it rather remarkable for the simplicity of its style than for a redundancy of epithet. He discovered more of the latter in the amendment than in the original report. It was true that the superlative was used in different places, but he thought it was used where it ought to be. He would not, however, detain the committee with matter so immaterial, but would proceed to what appeared to him of some consequence.

A stranger who had come into the House during this debate, and heard what had fallen from the mover of the proposed amendment, and from members who had followed him, would have supposed, that instead of an act of ordinary course being under discussion, they had been debating the question of a declaration of war against France.

He would declare, for himself at least, on the subject of war, that he agreed in certain of the sentiments of gentlemen on the other side of the House. A state of war was certainly a curse to any nation; to America it would be peculiarly a curse. It ought to be avoided by all possible means. It was not only impolitic, but madness, to run into war. But he thought there were two sides of the subject. He thought that peace was the greatest of all possible blessings; but he also thought that peace might be purchased too dearly, and war avoided at too great an expense. He thought peace might cost a greater value than money—our independence. This was no new sentiment in this country. It was thought that peace might be bought too dearly in the Revolutionary war; they then thought it better to be at war than to submit to the alternative evils. France also shows that she prefers a state of war—a war carried on at an unexampled expense of blood and treasure—to a state of peace with despotism. He thought, therefore, that we should hold a language of a firm and manly tone. To preserve peace by all honorable means, but not by dishonorable means. As he observed last session, on a similar occasion, we should cultivate peace with zeal and sincerity; but whenever our intention of doing so was publicly expressed, it ought to be accompanied with an opposite assertion of a determination, if our endeavors to maintain peace fail, that then every resource of the nation shall be called into existence in support of all that is dear to us. Such a declaration, at this time, was extremely proper. At present, he said, all the observations which had been made relative to war, were very premature. They might be brought into consideration, when any measure should be discussed which might lead to a war with France. Then would be the time to count the cost and the benefit. At present, he conceived, our only object was, to inquire what were the feelings which the conduct of France had created in our minds, and whether we were prepared to express those feelings.

Shall we, said he, from a fear of irritating the French Republic, in a communication with our own Executive, suppress our feelings, or what is worse, suppress the truth? For his own part, he saw nothing in the present business but an expression of feelings naturally excited by the occasion; nothing but a declaration of facts. This being the case, the question was, whether, from fear of irritating the French Government, they should suppress these feelings.

It would be well to consider what would be the consequence of this condescension. He did not think they were warranted in believing that they should put France in a better humor with us by this means. He was sure that gentlemen who were in the last Congress would recollect that the Answer to the Address was reported in very mild terms, from a spirit of accommodation in the

committee who formed it, and that it was afterwards pruned in the House with care, yet there had been no amelioration of the disposition of the French towards this country. Instead of inducing them to behave better to us, had it not been with a knowledge of this that they have offered us fresh insult and indignity? Indeed, Mr. Pinckney suggests an idea that this moderation of ours may have been one of the operating causes of sending our Minister from their country. Besides, gentlemen have not pointed out the particular expressions which they consider as irritating in the report. For his own part, he thought the amendment might be considered as more irritating than the draft of the committee. What was the language of the amendment? [He read it.] He gave it as his opinion, that there was more of war and bullying in it than in the original report. It was true the threat it contained was accompanied by an *if*. Now, all the difference between the draft and the amendment was, that in the former, instead of using the *if*, they had at once expressed indignation at the insults offered to this country by the French Republic, and given assurances to the Executive that they would repel indignity with indignation.

But, said he, let us, on this occasion, confine ourselves to the real question now before us. We have been informed, said he, by the PRESIDENT, in his Speech to both Houses, of the conduct of the French towards this Government, and have since received the documents upon which this report was founded. He had not yet heard any gentleman justify the conduct of the French. He had heard, indeed, some attempts to palliate or apologize for it, but none to vindicate it. His ideas of these things were, that the French had not only injured us, but added insult to injury; and while he retained this belief, he could not help feeling indignation and resentment. The question before the House was not, Will we resent it? Our actions, better than our words, show our desires for peace. It was a desire in which we were too much interested, to be doubted; yet it was proper that this desire should be accompanied with expressions of our feelings on the occasion. What objections could there be to this? If we were sunk so low, if our fears of the French Republic are so great, that we dare not express what we feel, our situation was become really deplorable. He hoped this was not, nor ever would be the case. He hoped we should cultivate peace with sincerity, but with firmness. For if the French Republic is so terrible to us, that we must crouch and sink before her; if we hold our rights at her nod, let gentlemen say so. And if we are to give up ourselves to her, let it be an act of the Government; do not let us conceal under the appearance of spirit, actual submission. Nations, it was true, might be brought into such a situation as to be obliged to surrender some of their rights to other nations; but when this is done, it should be done with some degree of character. Let it not be done as a confession of guilt. Let us, said he, however, surrender any thing, sooner than the fair fame of our country. He was not a military man, nor did he know how he should act upon such an occasion; but he knew what we ought to do. We ought, rather than submit to such indignity, to die in the last ditch. Why insinuate that the Government had been wrong? was it not enough to submit to injury; shall we not only receive the stripes, but kiss the rod that inflicts them?

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Mr. OTIS observed, that he was so little accustomed to the mode of conducting a debate in that honorable House, that he hardly knew in what manner to apply his remarks to the subject before the committee. A specific motion had been laid on the table by the gentleman from Virginia, which reduced the true question before them to a narrow compass; but the mover, in discussing his own proposition, had enlarged upon subjects dear to his mind, and familiar to his recollection. In this circuit he had been ably followed by the gentleman from South Carolina, and others; so that the whole subject of the Address to the PRESIDENT, and the reply of the committee, was brought into view, with many considerations that did not belong to it. It was his design to have remained silent until the subject had been exhausted by other gentlemen, and if any remark of an important nature had been omitted, which was not likely to have been the case, he would have suggested such ideas as might have presented themselves to his mind; but a motion having been made for the committee to rise, he would then offer a few observations, not so much for the sake of illustrating the question, which had been done most successfully, but in order to declare his sentiments upon this important occasion. He so far agreed with the gentleman from Georgia, that he believed, upon ordinary occasions, an Answer to the PRESIDENT'S Address should be calculated to preserve an harmonious intercourse between the different departments of Government, rather than to pledge either branch of the Legislature, collaterally, upon subjects that would come regularly under their consideration. But the present was not an ordinary occasion, and the situation of the country required that the Answer should not be a spiritless expression of civility, but a new edition of the Declaration of Independence. He expressed his regret that upon this question gentlemen should have wandered into a review of measures and subjects, so frequently examined, so deliberately settled, and which had a tendency to rekindle party animosity. If they would never acquiesce in the deliberate acts of the Government, because their personal sentiments had been adverse to them in the season of their discussion, there could be no end to controversy. For his part he conceived that all party distinctions ought now to cease; and that the House was now called by a warning voice, to destroy the idea of a geographical division of sentiment and interest existing among the people. His constituents and himself were disposed to regard the inhabitants of the Southern States as brothers, whose features were cast in the same mould, and who had waded through the same troubled waters to the shore of liberty and independence. He hoped that gentlemen would, in their turn, think the other part of the Union entitled to some consideration.

The Address of the PRESIDENT disclosed, for the contemplation of the committee, a narrative of facts, and of the existing causes of controversy between the French Republic and ourselves; the overtures for reconciliation, which were to be repeated by attempts to negotiate, and the measures of defence that might be proper, in case negotiation should fail. The injuries sustained by us were of a high and atrocious nature, consisting in the capture of our vessels, depredations

upon the property and persons of our citizens, the indignity offered to our Minister; but what was more aggravating than the rest, was, the professed determination not to receive our Minister until the complaints of the French should be redressed, without explanation and without exception—until we should violate treaties, repeal laws, and do what the constitution would not authorize, vacate solemn judgments of our courts of law. These injuries should not be concealed. He did not wish, however, to indulge in unnecessary expressions of indignation, but to state in plain and unequivocal terms the remonstrances of injured friendship. If any man doubted of the pernicious effects of the measures of the French nation, and of the actual state of our commerce, let him inquire of the ruined and unfortunate merchant, harassed with persecutions on account of the revenue, which he so long and patiently toiled to support. If any doubted of its effects upon agriculture, let him inquire of the farmer whose produce is falling and will be exposed to perish in his barns. Where, said he, are your sailors? Listen to the passing gale of the ocean, and you will hear their groans issuing from French prison-ships. Such were the injuries, and such the requisitions of the French nation; and he defied the ingenuity of any gentleman to draw a comparison between the Directory and the British Parliament, in favor of the former; and insisted that the demands of Charles Delacroix were upon a parallel with those of Lord North. He enlarged upon the analogy of the circumstances attending the pretensions of the British Government to bind us, when we were colonies, and of the French to subjugate us, now we are free and independent States. He thought it expedient to cultivate the same spirit of union, and to use the same firm and decided language. He regretted that questions should be agitated upon this occasion, which had been formerly the cause of party spirit and dissensions; and did not believe that the immortal men who framed the noted instrument which dissolved the charm of allegiance and shivered the fetters of tyranny, condescended to differ about verbal criticisms and nice expressions, through fear of giving offence; nor that it was incumbent upon the members of the committee to repress the assertion of their rights, or smother a just and dignified expression of their susceptibility of insult, because the French had been once our friends, or because the commencement of their revolution was a struggle for liberty. There was a time when he was animated with enthusiasm in favor of the French Revolution, and he cherished it, while civil liberty appeared to be the object; but he now considered that Revolution as completely achieved, and that the war was continued, not for liberty, but for conquest and aggrandizement, to which he did not believe it the interest of this country to contribute.

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### **WEDNESDAY, May 24.**

WILLIAM SMITH, from Pinckney district, South Carolina; SAMUEL SMITH, from Maryland; JOHN ALLEN, from Connecticut; and WILLIAM FINDLAY, from Pennsylvania, appeared, produced their credentials, were qualified, and took their seats.

#### ***Answer to President's Speech.***

The House again went into Committee of the Whole on the Answer to the PRESIDENT'S Speech, and Mr. NICHOLAS' amendment being under consideration,

Mr. SWANWICK opened the debate. He lamented the loss of time which was generally experienced at the opening of every session in debating the Answer to the Speech of the PRESIDENT, when, perhaps, business of the first moment called for immediate attention. It was much to be wished that committees appointed for this purpose would confine themselves to the instructions which were given to them on the occasion, which were in general terms, viz: "to prepare a respectful Address, assuring the PRESIDENT that the House will take into their serious consideration the various important matters recommended to their attention." If Answers were drawn in general terms, conformably to these instructions, he thought very many of the embarrassments which they now experienced would be avoided, and every member would be left at liberty to pursue such measures as appeared to them right, when they came before him in the ordinary course of business unclogged by any creed which he might have been called to assent to before he had an opportunity of considering the subjects it contained. It also often occasioned much warmth in debate, and served to divide the House into two parties on the very threshold of their business. This could not possibly have any good effect, but the contrary; he should therefore be happy to see the practice simplified or abolished altogether.

The effect at present has been, that no sooner had the committee appointed to draft an Address made a report, than the gentleman from Virginia proposed a substitute, which, according to his idea, was more proper. A warm debate had taken place, and he believed that either might be adopted without effect, as they were merely a form of words leading to no conclusion. Suppose a majority of *one* was obtained on the report, what end would be produced? None; for it might be that the very persons who voted on this general question, might vote against particular subjects when they came under consideration; as every one would recollect the difficulties which had been experienced in getting three frigates built, and this difficulty, he doubted not, would again occur. Since, however, these two forms of an Answer were before them, and they were called upon to say which they would adopt, it might be proper to go into some consideration of the subject.

The difference between the two productions seemed to be, that the one reported seemed to express great indignity on account of the injuries received from the French Republic, and a determination to repel them; that produced by the gentleman from Virginia was of a more conciliatory tone, recommending to the PRESIDENT to begin his negotiations with placing the French Republic on the same ground with the other belligerent powers; so that the difference

was simply as it respected a few words.

What were the arguments in favor of the warm tone? They were told it would have a great effect on the French Republic, because if a spirited Answer were given to the PRESIDENT'S communication, signifying (as his colleague Mr. SITGREAVES had strongly expressed it) that we were determined to *die in the last ditch*, it would strike them with terror. If he thought this effect could be really produced, it might be some inducement for him to agree to it.

Mr. S. remarked, that they were told by Mr. Pinckney, in his letter to the Secretary of State, that it was probable that two events had contributed to his dismissal from the French Republic, viz: one, the victories of Bonaparte in Italy, the other, the Addresses of the Senate and House of Representatives in answer to the Speech of the PRESIDENT at the last session. With respect to the Answers alluded to, no opinion could be formed from this assertion, because, though that of the House of Representatives was tolerably moderate, yet that of the Senate was as warm as any thing could be produced. He read extracts from both, and compared them with each other, giving the credit which, in his opinion, was due to the most moderate.

The first and most necessary step to be taken was, to put all the belligerent powers upon the same footing, which could not be an offence to any. But it was said that to recommend this measure to the Executive, was to dictate to him; that it was carrying humility on the front of the Minister who should be employed. What! said Mr. S., would it be to carry humility in his front to say, "I come to place you on the same footing with the most favored nation?" It certainly could not; since it was the language of right reason, of justice.

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As to dictating to the Executive, could it be called dictating when we merely express our opinion and advice to him, on points which he has himself laid before us; and, in order to deliberate on which we were thus unusually called together? Very low and debasing, indeed, must be the situation of this House, if they were to be muzzled and prevented from laying their sentiments before the Chief Magistrate of the Union! When treaties are made, we are told they are laws over which we have no power. If we dare not speak on the subject before they are made, is this House reduced merely to the odious task of laying taxes, without being allowed to exercise its sense on any other public measures connected with them? Why does the PRESIDENT communicate these things to us, if we are not allowed to express any sentiments about them? Why do the people elect their representatives all over this widely extended empire, if, when they are convened, they are not allowed the privilege of expressing their opinions on the dearest interests of their constituents? But it is stated that this will create division among the branches of the Government, who ought always to act and think alike. Were this the case, there was no use to divide the Government, as our constitution does, into three branches; they might all have been left in one, and then no accident of this kind would have happened; but the fact is, this very division of the branches was devised in order that they might operate as checks on each other. The people thought it better that a division of this kind should prevent acting at all, than that we should act hastily and unadvisedly. Thus when a law, after mature deliberation, passes this House as wise and good, the Senate were not obliged on this account to see it in the same light; they judge for themselves, and, if they see cause, reject it, and no complaint takes place on our part because they do so. In another Government, indeed that of England, all the branches have been contrived into the most perfect union, Kings, Lords, and Commons, all agree, but has the Government been the better for this? Happy had it been for that nation, had this not been the case. Many an unwise measure they have gone into, might then, fortunately for the nation, have been totally prevented.

But it has been said we ought to express the highest indignation at the conduct of France. Let us examine for a moment on what this is founded. Three grounds have been mentioned; the dismissal of our Minister, the spoliations on our ships, and the interference with our Government, in attempting to divide the people from it. As to the first, the dismissal of our Minister, said Mr. S., nobody can feel more sensibly than I do, this indignity; but it only leads me to regret, as I have often already expressed my regrets, at our sending so many diplomatic gentlemen to Europe. Wretched will be our case, if we are embroiled whenever these gentlemen shall be refused, or uncivilly treated. All history is full of instances of wars, founded on such points of etiquette as these, and they admonish us against employing embassies, as much as possible, to avoid these dangers from our foreign connections. But it seems, the Directory, by Mr. Pinckney's letter, at the same time sent away thirteen other foreign Ministers; yet we do not hear that these nations went to war on this account. One of them was Sweden, a very powerful maritime nation, possessed of a considerable fleet; her Minister was dismissed; she contented herself with sending away the French Minister also, and here the dispute ended. But, surely allowance ought also to be made for the present revolutionary state of France. If all things do not proceed there with the order they ought, it is perhaps because of their present warlike and revolutionary position, which cannot but mend every day, and should induce us to make some allowance for them.

Mr. LIVINGSTON said that, having listened to the gentlemen who had preceded him with the most respectful attention, and heard their ardent expressions of patriotism and the lively sense which they entertained of the true dignity of our Government, he should not attempt to follow them into a field which had been exhausted, but would leave it to the consideration of the committee and his country to determine upon his sentiments and the measures which he should suggest whether he was not equally disposed with others to promote the peace and honor, the happiness and security of his country and Government; he would leave it for his measures to speak for him; he would not be led away by any idle or extraneous vanity from objects so solemn and important; he should speak freely as became an American at a crisis so very pressing. First, then, he should notice the Address that was before the committee, and the amendment which had been proposed

to be made to it; he was sorry to observe the manner in which they had been discussed. It had been considered, on one side, that to adopt any language in reply to the Address but that which has been laid before the committee in the report, would amount to a surrender of all our rights, privileges, and independence, as a nation, to France; on the other, it has been held that the differences between us and France are distorted, and that we should at least not shut up every avenue to negotiation by an obstinate and blind assertion of our own infallibility. If he believed with those of the former opinion, that we should in any shape incur the stigma of degrading ourselves, or if he suspected even that we should sacrifice one right of our country or Government by an adoption of the amendment proposed, or he thought we should not endanger our national character and safety by the adoption of the report, he should most certainly reject the amendment and adopt the report; or if he believed, with the gentleman from Massachusetts, (Mr. OTIS,) that the demands of France now were any wise analogous to those of Great Britain on a former occasion, sooner than consent to a dereliction of independence and national character he would not stop short of the language of that report; but as he could not force his judgment to so outrageous a misconstruction, as he saw on the contrary numerous reasons to entertain a very different opinion, he would not consent to incur the perils and the errors in which that report would involve us; he could not consent to so hasty, so precipitate, and inconsiderate a step.

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The question properly before the House at this time is, whether we shall continue to express so perfect a reliance on all the acts of our own Government; whether we shall say obstinately to France that there is no possible case in which our judgment could have been misled or mistaken in our conduct towards her; and, by determining to adhere to our former conduct, preclude every possibility to an amicable adjustment; or leave a reasonable opportunity open for an effectual discussion and adjustment of differences, wherever they may subsist.

The scope of the Speech of the PRESIDENT to both Houses, it must be confessed, goes to bind us to the former conduct; and it is too evident that the report, in strict coincidence with the sentiments of several, but not all its supporters, bears that same dangerous tendency. From which line of conduct are we to expect the most beneficent issue, to treat with a complaining power by a determination to show that its complaints are groundless, or by examining the complaints and the evidence in amicable negotiation and deciding afterwards? Let us examine the complaints of France, and then determine whether they are all so frivolous as to excite irritation at the mere mention of them; unless we are so convinced, unless we are thoroughly satisfied that they are so, we cannot vote the Answer as it is reported. Should we discover in such an examination that some of our measures have been founded at least in mistake, would it then be proper to adopt the language of the Address? But should we persist under such a possibility of mistake, what do we risk? an evil much more fatal than the worst that could follow the most sober resolution which we can now adopt; we risk the alternative of abandoning it after a war in which we may be sufferers, and after we may have retarded the increasing prosperity of our country half an age. We have an example before us in a nation that was eager to snatch at a remote pretext for an assumed interference in her Government; we have seen that nation, among the most powerful and haughty in Europe, the most vain of her dignity, (real or unreal,) the most apt to interfere in the government of others; we have seen her enter into a war, and we have seen her driven to the lowest state of humiliation; we have seen her obliged to pursue the most abject means of solicitation to obtain a peace from that very nation whom she had irritated to a war; and we saw her more humiliated still, by the rejection of those propositions which she had made to obtain peace. Have we a better prospect than that nation? Are our means equal to hers? Are we, indeed, ready to embark in a war—with France, too—and present such a lesson to the world as America at war with France, after France has defeated the efforts of all the world? He again asked, have we the means? Let gentlemen who are willing to plunge us into that dilemma make the reply; but let not gentlemen indulge in so hateful a picture. But, although we have no means, he was still against surrendering the honor of our country; fortunately, no such sacrifice is demanded, no such measure is necessary; and were we ten times more destitute even than we are, he should never submit to our national degradation, were there a power so insolent as to expect it.

It was, he knew, a very ungracious, and often an unpopular task, to display the errors of our own Government; there was a national vanity, a vain and unmeaning pride, which sought to be bolstered up by frippery of words and acts of dissimulation. He knew that this empty and pernicious vanity often assumed the post and place of the true dignity of a country, and blinked contumely on him that was disposed to prefer the plain, frank, open path of integrity and truth. He would choose between these opposite passions of a nation, and preferring his duty to unmerited reproach, he would neither repress the sentiments of his mind, nor foster those which he conceived to be pregnant with ruin; he would glory more in promoting the justice of his country than in conducting her to the most brilliant triumphs in an unjust cause; he would, therefore, calmly examine whether France had just cause of complaint; and whether she had or not a just cause, he would assert that France might, without exciting indignation, think herself injured; that she might, was a sufficient reason with him for preferring the amendment, as it left an opening for rather amicable discussion and accommodation, rather than the report which had the opposite character.

#### **THURSDAY, May 25.**

Mr. GILES rose.—He said that he had always been against this form of giving Answers, since the time the practice first began; it was derived from the British House of Commons, which was a bad source for precedents. In that House, however, the Speech and the Answer were both known to be the work of the Minister, and treated with great freedom. Mr. G. thought that it would be

better to direct the Committee of Rules and Orders of the House, to make one standing Answer, which would serve regularly for all Speeches. This would be an improper time for such a regulation, but though we could not now get rid of a bad habit, it was not necessary to vindicate it. He said, that Mr. LIVINGSTON had yesterday taken part of the ground which he intended to take. The question before the House amounted to this: shall we recommend it to the PRESIDENT to place all nations on a level as to commerce, and to remove the inequalities between them? To assist him in deciding this point, he would refer to facts and dates; and, as he did not wish to represent things in false colors, he would be glad to be corrected, if he should happen to go wrong. He would begin at the 1st of February, 1793, when England dismissed the French Minister, and the Republic, in consequence, declared war against her. On the 22d of April following, the PRESIDENT declared this country to be in a state of neutrality, and warned the citizens to observe it. At this time, about the 10th May, M. Genet landed and raised a considerable alarm by commencing an improper correspondence with our citizens. Government from that time took a wrong impression, and acted under the idea of a dangerous French influence in this country. All this was a mistake. Genet was universally reprobated, unless by a few disorderly people, and Government from that trial should have learned to trust us. In consequence of the disturbance that Genet made, many societies entered into resolutions to support government. Even the pulpit reviled Genet. If execration, disappointment, and contempt, could fill up the measure of punishment, he had it. From the arrival of Genet to that of Fauchet, some sentiments were kept alive, and some phrases that he would review. The *Friends of Order* and the *Disorganizers* were two of them. Then we had the reign of *moderation*, but of so frantic a kind, for the short time which it lasted, as to exercise the greatest of despotism over opinion. This *order*, *moderation*, and *disorganization*, were all gone and no more said about them. Among Mr. G.'s constituents, when notice came of the Western insurrection, they were all ready to march in support of Government; instead of calling themselves the friends of order, they proved that they were so. The country remained from this time in a tranquil state till the arrival of Mr. Jay's Treaty. On the 5th of December, 1793, a Message was received from the PRESIDENT, speaking of France in the most friendly terms. In spite of Genet's quarrel there was no misunderstanding with the Republic, and Mr. G. quoted this circumstance to prove that there was no serious difference till the arrival of Mr. Jay's Treaty. Mr. G. said that he would review what was in the mean time passing in Europe. During the summer of 1793, Britain made no less than six treaties with different nations, and one stipulation in each of them was that the contracting parties should stop all provisions going to France, and force all other nations to do so. The first of these treaties was made with Russia, on the 20th of March, 1793; the second was with Spain; the third with Prussia; the fourth with the Emperor; the fifth with Portugal; and the last with the King of the two Sicilies. It was said that France preceded Britain in the order for stopping provisions; Britain did not publicly issue such orders until the 16th of June, 1793; but Britain had, in reality, adopted the practice long before. The French orders fluctuated; but, at one time, the United States were exempted from stoppage, when others were stopped. He then noticed the stoppage of provisions to the West Indies; the Orders of the 6th of November, 1793, and the 8th of January, 1794. In the very short interval between these two dates, France had gone on so fast that Britain found it better to ameliorate the condition of neutral States. During this time, England also made a truce for Portugal with Algiers, and this truce has cost us fifteen hundred thousand dollars, besides what it may cost hereafter. Timber had been promised to be cut for the Algerines, of a kind which this country could not furnish in due quality. Some of it was to be brought so far as from the north-west branch of the Susquehanna. He would pass over Lord Dorchester's speech to the Indians, and the British soldiers and savages joining the tomahawk against our Western frontiers. He mentioned these things, merely to keep them in view. There was something, he said, which he could never think of without surprise. This was a conversation between Lord Grenville and Mr. Pinckney. It was related in a letter, dated the 9th of January, 1794, from Mr. Pinckney. It took notice of Lord Grenville telling Mr. Pinckney the desire which the British Government had of maintaining harmony with the United States, and their readiness to support the Government of this country against a dangerous Jacobin faction who wanted to overturn it. Mr. G. said, that this betrayed more interference on the part of Britain than there ever had been on the part of France. From this time our Government had taken a leaning towards Britain. French influence was only a sentiment which we felt for the sake of liberty, but which was sometimes conjured up as a chimera to serve certain purposes. The United States had a real interest in cherishing the sentiment, which never could be dangerous.

As for British influence, it was a matter much more substantial. That people speak the same language with us, are scattered from one end of the continent to the other, intermarry with us, and have a very great commercial intercourse. Lord Grenville's proposition had led to Mr. Jay's Treaty. As to France trying to engage us in the war, any other nation in the world would be glad to do so. France had addressed the people of America, and was resisted: Britain had addressed our Government; and Mr. G. feared that the latter had not made so firm a stand. While Congress were taking proper measures to check the depredations, Mr. Jay, to the astonishment of mankind, was named Ambassador to England. The Treaty was signed on the 19th of November, 1794. The instructions, Mr. G. had never seen, but if we may judge from the Treaty itself, they were extremely full. For the making of such a Treaty he had never heard a reason, nor had he ever been able to learn one good consequence likely to accrue from it. It had been called an instrument of peace, and its first effect was, that we were summoned to fight with France, Spain, and Holland. One of the articles was that free ships do not make free goods. This was highly injurious both to France and the United States; it implied a breach of the law of nations, because, before you can search for an enemy's goods you must stop neutral ships. This regulation could only be understood as operating against France. If we could not help the practice going on, we



should at least have suffered it to stand as it was, without any countenance. All the principal articles of export from the United States were declared contraband, except tobacco, and, indeed, that might be included under the general title of provisions, as people would sometimes be in want of a chew. He spoke of this provision clause as infamous. He referred to Count Bernstoff, Minister of Denmark, who had kept his country in a more honorable situation than perhaps any other in Europe had done during the present war. Mr. G. read the refusal of Count Bernstoff to comply with the British requisition to that effect. During the armed neutrality, the United States had owned that free bottoms should make free goods. Was there any reason since to alter our opinion? He would be glad to hear gentlemen answer if there was any. He had always said that the provision article was unjust to France, and yet on account of the British Treaty we are to plunge into a war before we know whether we are in the right or in the wrong. Gentlemen who had promoted the British Treaty now came forward to support it, but it would now be more manly to declare at once that we cannot do so. In Citizen Adet's complaints, many articles were unjust and trifling, but this was always the case in productions of that sort. Mr. G. then referred to the speech of Barras: he said that Britain still went on robbing and impressing American seamen. Mr. HARPER had yesterday said that the impressments were few; but how were we to be certain of that? The men are not allowed to write to us, and Mr. Pinckney informs us that vast numbers of them are in French jails. He had always wondered at our having so few communications on this head from the Executive. A law had passed in this House and in the Senate upon this subject, without any information from that quarter. Gentlemen had allowed that it would be just enough to grant an equality of privileges to every foreign nation; but, Mr. HARPER had objected, that if this were granted to France, she would still continue to demand. When she makes an unjust claim, said Mr. G., we should stop; he would not be for going any further. The French had not acted on vague claims; they take neutral and contraband articles; they take the ships, and when they find our seamen on board of British vessels, they threaten to treat them as pirates, and will not allow them to prove that they were impressed.

## TUESDAY, May 30.

JOHN FOWLER, from Kentucky, appeared, produced his credentials, was qualified, and took his seat.

### *Answer to President's Speech.*

The House again resolved itself into a Committee of the Whole, on the Address reported in Answer to the Speech of the PRESIDENT OF THE UNITED STATES; when

Mr. COIT said he thought that part of the 5th paragraph which related to the Executive Directory would be less exceptionable, and equally convey their disapprobation of such sentiments, if it were expressed more generally, and without any allusion to M. Barras. He proposed, therefore, to strike out from "at," in the 4th line of the 5th paragraph, to "United States," in the 6th line, and to insert "any sentiments tending to derogate from that confidence; such sentiments, wherever entertained, serve to evince an imperfect knowledge of the real opinion of our constituents."

Mr. W. SMITH objected to the amendment of the gentleman from Connecticut, (Mr. COIT,) because it was hypothetical. He wished, as the fact was clearly established, to have a direct reference to the Speech of Barras, in their indignation at the sentiments. As the matter had appeared of sufficient importance to find a place in the PRESIDENT'S Speech, he thought it was also worthy of their notice. He insisted upon its being an attempt to divide the people of this country from their Government, by speaking insultingly of the latter, and flattering the former. He did not exactly know what was meant by the "suggestion of our former tyrants," but he supposed it meant bribery, and that by "perfidious people," General Washington was included.

Mr. W. SMITH said, that by the Government, the Executive only was meant. He was convinced of this from the manner in which he had seen the word used in the French Government paper, entitled the *Redacteur*.

Mr. COIT believed, that whatever M. Barras had said, it was not worth their attention. We might defy France or Frenchmen to say worse of us than they themselves said. He did not himself know how far the Speech of Barras was an act of Government; for, said he, when we directed our Speaker to reprimand Randal and Whitney, the words he used upon the occasion were not an act of the House. On another occasion, when the House were about to receive the French flag, they could not call what was said by the Speaker on that occasion, an act of the House.

Mr. WILLIAMS said, if Mr. Pinckney's letter was an authentic paper, the Speech of Barras was likewise so; and if so, it was doubtless an indignity to Government. He did not think with the gentleman from Massachusetts, (Mr. FREEMAN,) that it was "childish gasconade." He believed it was intended as an insult to the Government of this country. As to the gratitude which had been said to belong to the French nation, for their assistance in the war, he thought their services were amply repaid by the separation of this country from Great Britain. Besides, he added, the French never came to the assistance of this country until they saw we were likely to be successful in our struggle.

Mr. GORDON said there could be no doubt of the authenticity of Barras' Speech, since it stood upon the same ground as the rest of the documents. It was a flagrant insult upon Government, in his opinion, and warranted all that had been said upon it, as it was doubtless an attempt to separate the people from the Government.

Mr. THATCHER said the question was, whether or not any notice should be taken of the insulting

Speech of Barras. When, said he, the French flag was presented to this House, we were told we were not to stop to reason, but to express forthwith our feelings of affection. But now, when the most unexampled insult is offered us, such as one man would not receive from another, we are not to notice it at all, lest it should offend the French Republic. He knew of only one reason for passing it over in silence, and that, it was true, had some weight with him. That Barras spoke as the organ of the French nation, there could be no doubt; but he had his doubts whether he knew himself what he said. The Speech had strong marks of *delirium*, and he could not help believing that, when he delivered it, he was either *drunk* or *mad*. If the world went on for six thousand years to come, they would never again behold such a production.

Mr. McDOWELL was in favor of the amendment. He did not think himself bound, as had been insinuated by the gentleman from South Carolina, to echo all the sentiments in the PRESIDENT'S Speech. He wished to have an opinion of his own. He agreed that Barras' Speech was an indignity to the United States. He felt it, and would express it: but he did not think this the proper time. He denied the justness of the construction put upon the Speech by the gentleman from South Carolina. He supposed by "perfidious persons," was meant the persons in this country, generally called the "British faction." He differed in opinion also with that gentleman on the subject of dividing the people and Government, and could not allow that the phrase "good people" was intended as an insult. He allowed it was going too far to say that we owed our liberty to France; but being in some respect true, it took off from the offence. He was sorry to see on one side of the House constant attempts made to excite the resentment of the people of this country against France. It was not necessary at present to raise such feelings. They were not about to unsheath the sword, and to say, "We conquer or die." What gentlemen could not effect by reason, they seemed inclined to effect in a different way. He did not think this fair conduct.

Mr. VENABLE supported the amendment. He did not think any of the objections made against it had much weight in them. He thought the mode of expressing our sense of the indignity shown to this country by the Speech in question, was judiciously chosen by the gentleman from Connecticut. It was most consistent with dignity. It was not wise in them to take notice of every harsh expression which might be used against this country in any foreign nation; for, if such were our conduct, foreign nations would have good ground of complaint against us, and on that floor the account would be settled. Nor did he think it very becoming or dignified in gentlemen in that House so to express themselves as to excite frequent risibility; nor was it very honorable to that Assembly. [Alluding to the gentleman from Massachusetts.]

Mr. SITGREAVES had no doubt of the Speech of Barras being an official paper, and that its object was to divide the people from the Government. If he proved this, he trusted the language of the report would be preserved. It would be allowed that Barras was the mouth of the Directory, and that the sentiments which he speaks, are not his own, but what were beforehand agreed upon. It was doubtless, therefore, a solemn official act. With respect to the observation of the gentleman from Virginia, that what he said respecting our Government was not applicable to the Executive, but to the people at large, he believed he was wholly mistaken, as the word Government, in the French language, constantly meant Executive, as was abundantly clear from the way in which it was used in Mr. Adet's notes. [He quoted a number of passages to prove his assertion.] It was generally used for the Executive in contradistinction to Congress, or any other of the constituted authorities. If it were clearly intended to convey an insult upon our Executive, (and there could be no doubt of it,) even the mover of the amendment could not think it unbecoming in that House to express themselves in the words of the Address.

Mr. GALLATIN said, whatever might be the insult intended by the Speech of the Executive Directory, he thought it best to notice it in general terms as it was the sentiment which was objectionable and not the Government of France. But as so much had been said about Government and people, he would say, that an insult offered to the people could not be less offensive than one offered to the Government. He supposed they alluded to the British Treaty, which was as much the instrument of Congress as of the Executive, and of the people as either, since they very generally petitioned in favor of it. He then took notice of the perversions which the gentleman from South Carolina had put upon the words of Barras, and denied that there was the least ground for them, and said that the *Gazette of the United States* might as well be called a Government paper of this country, as the *Redacteur*, that of France. If, said Mr. G., it be our intention to declare war at once, then there might be some propriety in taking hold of every word which would bear to be construed into an insult, but if we wished for peace, it was unwise to do so. Besides, he said, this Speech was not communicated in an official manner, nor could it be so communicated. It was sent by Mr. Pinckney in a newspaper, from which the copy sent to them was translated, but the translation was not even authenticated, as usual. He did not dispute the fact, but it was a thing which they were not bound to notice; indeed, an error with respect to a name appeared on the face of the paper; and being delivered to Mr. Monroe, who was no longer Minister, it could not be officially communicated. He therefore thought it was not worth their notice.

Mr. OTIS thought it right to pay respect to what was recommended by the PRESIDENT. The question was whether they should notice the insult generally, or in reference to the Directory. He was in favor of the first; but as this was the only opportunity given in the Address of expressing their opinion of the conduct of the French Government, he wished the Address to stand as reported.

Mr. O. remarked upon Barras' Speech. He did not know what was meant by granting peace. When parties were at war, one granted the other peace; or sometimes a stronger power suffered a weaker to be at peace. He supposed the French meant it in the latter sense towards this country. On condition that we respect her sovereignty! What was meant here? If it was

sovereignty over their own nation, we had nothing to do with it; if it was any other, it must be the sovereignty they had over us. He concluded by remarking, that if there were any members in that House upon whom any imputation could rest of their being unduly attached to the French cause, he thought it a good opportunity to come forward and convince the world that the charges were unjust.

Mr. LIVINGSTON took notice of what had fallen from the gentleman last up, and showed the folly of adopting an irritating tone; as, if we charged a foreign government with making use of one disrespectful expression, they would have no difficulty in retorting the complaint, as in the course of that debate, the gentleman from South Carolina (Mr. HARPER) had called the King of Spain the humble vassal of France, and had not been sparing of his epithets to other powers; and the gentleman from Massachusetts (Mr. THATCHER) had termed Barras drunk or mad. He also noticed the constructions put upon the words "granting peace," and "sovereignty," as very extravagant. The Speech, he allowed, was bad enough, but he saw no reason for torturing it in this manner.

Mr. GILES said the gentleman from Massachusetts had called upon persons who might lie under imputation of being friends to France, to come forward, and show the imputation false. He informed that gentleman that he did not feel his reputation hurt by any imputation which he or any other person might throw upon him. He would rather the gentleman would convince them they were wrong, than call them names.

Mr. OTIS explained. He declared he meant only to say that they had been unjustly charged with those imputations, and that such a conduct would show it.

Mr. W. SMITH again urged the propriety of retaining the words in the Address as reported, as the amendment proposed had no reference to the PRESIDENT'S Speech, as that referred to an official act; whereas the amendment had no relation to France, but would apply to the people of China, or the people of this country, as well as to those of France. He believed the discussion had been of some use, because it was now on all sides acknowledged that the Speech of Barras was an insult, which was not allowed at the beginning of the debate. He could only say that gentlemen died hard; to use the expression of his friend from Pennsylvania, (Mr. SITGREAVES,) they seem determined to *die in the last ditch*. The objections to the words of the present Address, were like the objections of *Thomas Paine* to the writings of Moses. He denied that there was any similarity between expressions used in debate in that House, and expressions used by an Executive authority. No notice, he said, ought to be taken of what fell from members in that House, whilst they were allowed to be in order; and if foreign Ministers attended to hear their debates, and heard things which they did not like, they ought not to take exceptions at it, since they came there uninvited, and it was their duty to say what appeared to them right at the time.

The question was put on the amendment, when there appeared 49 votes for it, and 49 against it. The Chairman declared it carried in the affirmative.

### WEDNESDAY, May 31.

#### *Answer to the President's Speech.*

The House again resolved itself into a Committee of the Whole on the Answer to the PRESIDENT'S Speech, Mr. DAYTON'S amendment being under consideration.

Mr. HARTLEY was persuaded there was but one wish in the House with respect to peace, notwithstanding insinuations to the contrary; but he could not agree with the proposed amendment, as he wished the negotiation to be left wholly to the PRESIDENT. The treaty entered into with France provided for their being placed on the same footing with other nations, and wished that right to be recognized by negotiation, and he doubted not the PRESIDENT would do it; for as he must see that peace was the desire of all, he would take such steps as would be best calculated to lead to it. He was against encroachments on the Executive, as, if they once begun, there was no knowing where they could stop. He thought there was no danger of war; it would be a disagreeable thing for men who fought in the Revolutionary war, to be obliged to unsheathe their swords against France; but he trusted before they rose, means would be taken for putting the country into a state of defence.

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The question was then taken on the Address as amended, and resolved in the affirmative—yeas 62, nays 36, as follows:

YEAS—John Allen, George Baer, jr., Abraham Baldwin, David Bard, James A. Bayard, Theophilus Bradbury, David Brooks, John Chapman, Christopher G. Champlin, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, George Ege, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jr., Albert Gallatin, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, John Milledge, Daniel Morgan, John Nicholas, Harrison G. Otis, Elisha R. Potter, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thompson J. Skinner, Thomas Sinnickson, Jeremiah Smith, Nathaniel Smith, Samuel Smith, William Smith, (of Charleston,) George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS—Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findlay, John Fowler, William B. Giles, James Gillespie, Andrew Gregg, Jonathan N. Havens, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair M'Clenachan, Joseph McDowell, Anthony New, Josiah Parker, Samuel Sitgreaves, William Smith (of Pinckney District), Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Swanwick, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

*Resolved*, That Mr. SPEAKER, attended by the House, do present the said Address; and that Mr. VENABLE, Mr. KITTEA, and Mr. NATHANIEL FREEMAN, Jr., be a committee to wait on the President, to know when and where it will be convenient for him to receive the same.

And then the House adjourned.

### SATURDAY, June 3.

A report was received from the Commissioners of the Federal City, which was ordered to be printed.

#### *Answer to the President's Speech.*

Mr. VENABLE, 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, according to order, waited on the PRESIDENT, who signified to them that it would be convenient to him to receive the said Address, at twelve o'clock this day, at his own house.

Mr. LYON said he yesterday voted against the appointment of a committee to wait upon the PRESIDENT to know when and where he would receive their Address, because he believed the PRESIDENT should always be ready to receive important communications. He wished to make a motion, which was, "that such members as do not choose to attend upon the PRESIDENT to present the Answer to his Speech, shall be excused." He wished to be understood. He thought the motion a reasonable one, because it proposed to leave them at liberty to do as they pleased. And by the rules he saw, he was obliged to attend, except sick, or leave of absence was obtained; now, as he hoped not to be sick, he wished to put himself out of the power of the Sergeant-at-Arms, if he did not attend. He had been told he might stay behind without being noticed; but this was not enough for him, as he was a timid man, and the House had the law on their side, as he recollected something of a reprimand which had been given to Mr. WHITNEY. [The SPEAKER reminded him it was out of order to censure the proceedings of the House on any former occasion.] He said he stood corrected, and proceeded.

He had spoken, he said, to both sides of the House (*as they were called*) on the subject. One side dissuaded him from his motion, and laughed at it; the other side did not wish to join him in it, because it would look like disrespect to the person lately elected, who was not a man of their choice; but he trusted our magnanimous PRESIDENT would, with the enlightened yeomanry of America, despise such a boyish piece of business. This, he said, was no new subject with him, he had long heard the folly of the wise made a matter of wonder in this respect. It was said this was not the time to abolish the custom; but this was the cant used against every kind of reform. No better time could ever arrive, he said, than this, which was the threshold of a new Presidency, at a time when the man elected to the office was beloved and revered by his fellow-citizens; he was as yet unused to vain adulation; he had spent a great part of his life amongst a people whose love of a plainness of manner forbids all pageantry; he would be glad to see the custom done away. Were he acting in his own personal character, he perhaps might conform to the idle usage, but acting as he was for eighty thousand people, every father of a family in his district would condemn him for such an act.

Mr. BLOUNT said he had seconded the motion of the gentleman from Vermont, in order to give him an opportunity of stating his reasons for making it, and not from any desire to rescind the rule.

Mr. DANA observed that the House would not wish to do violence to the gentleman's feelings. It was true some of the most respectable men in the United States had waited upon the PRESIDENT in a similar way, yet, if the gentleman thought it would not comport with his own dignity to do it, he hoped he would be excused.

The motion was put, and carried unanimously.

The SPEAKER informed the House the hour was arrived at which the PRESIDENT had appointed to receive them.

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Mr. MACON moved that the House do now adjourn. He should wait upon the PRESIDENT; but it seemed to be understood that members were obliged to go. He thought, however the power of the House might extend to bringing a member into the House, there was no power to carry him out.

The motion was negatived without a division.

The House then withdrew, and waited upon the PRESIDENT OF THE UNITED STATES with the following Address:

*To the President of the United States:*

Sir, the interesting detail of those events which have rendered the convention of Congress, at this time, indispensable, (communicated in your Speech to both Houses,) has excited in us the strongest emotions. Whilst we regret the occasion, we cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called.

We have constantly hoped that the nations of Europe, whilst desolated by foreign wars, or convulsed by intestine divisions, would have left the United States to enjoy that peace and tranquillity to which the impartial conduct of our Government has entitled us; and it is now, with extreme regret, we find the measures of the French Republic tending to endanger a situation so desirable and interesting to our country.

Upon this occasion we feel it our duty to express, in the most explicit manner, the sensations which the present crisis has excited, and to assure you of our zealous co-operation in those measures which may appear necessary for our security or peace.

Although it is the earnest wish of our hearts that peace may be maintained with the French Republic, and with all the world, yet we will never surrender those rights which belong to us as a nation; and whilst we view with satisfaction the wisdom, dignity, and moderation, which have marked the measures of the supreme Executive of our country, in its attempts to remove, by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its Minister. No attempts to wound our rights as a sovereign State will escape the notice of our constituents; they will be felt with indignation, and repelled with that decision which shall convince the world that we are not a degraded people, that we can never submit to the demands of a foreign power without examination and without discussion.

Knowing as we do the confidence reposed by the people of the United States in their Government, we cannot hesitate in expressing our indignation at any sentiments tending to derogate from that confidence. Such sentiments, wherever entertained, served to evince an imperfect knowledge of the opinions of our constituents. An attempt to separate the people of the United States from their Government, is an attempt to separate them from themselves; and although foreigners, who know not the genius of our country, may have conceived the project, and foreign emissaries may attempt the execution, yet the united efforts of our fellow-citizens will convince the world of its impracticability.

Sensibly as we feel the wound which has been inflicted by the transactions disclosed in your communications, yet we think with you, that neither the honor nor the interest of the United States forbid the repetition of advances for preserving peace. We, therefore, receive with the utmost satisfaction your information that a fresh attempt at negotiation will be instituted; and we cherish the hope that a mutual spirit of conciliation, and a disposition on the part of France to compensate for any injuries which may have been committed upon our neutral rights; and, on the part of the United States, to place France on grounds similar to those of other countries in their relation and connection with us, if any inequalities shall be found to exist, will produce an accommodation compatible with the engagements, rights, duties and honor of the United States. Fully, however, impressed with the uncertainty of the result, we shall prepare to meet with fortitude any unfavorable events which may occur, and to extricate ourselves from their consequences with all the skill we possess, and all the efforts in our power. Believing with you that the conduct of the Government has been just and impartial to foreign nations, that the laws for the preservation of peace have been proper, and that they have been fairly executed, the Representatives of the people do not hesitate to declare that they will give their most cordial support to the execution of principles so deliberately and uprightly established.

The many interesting subjects which you have recommended to our consideration, and which are so strongly enforced by this momentous occasion, will receive every attention which their importance demands; and we trust that by the decided and explicit conduct which will govern our deliberations, every insinuation will be repelled which is derogatory to the honor and independence of our country.

Permit us, in offering this Address, to express our satisfaction at your promotion to the first office in the Government, and our entire confidence that the pre-eminent talents and patriotism which have placed you in this distinguished situation, will enable you to discharge its various duties with satisfaction to yourself and advantage to our common country.

To which the PRESIDENT returned the following answer:

*Mr. Speaker, and Gentlemen of the House of Representatives:*

I receive with great satisfaction your candid approbation of the convention of Congress; and thank you for your assurances that the interesting subjects

recommended to your consideration shall receive the attention which their importance demands; and that your co-operation may be expected in those measures which may appear necessary for our security or peace.

The declaration of the Representatives of this nation, of their satisfaction at my promotion to the first office in the Government, and of their confidence in my sincere endeavors to discharge the various duties of it, with advantage to our common country, have excited my most grateful sensibility.

I pray you, gentlemen, to believe, and to communicate such assurance to our constituents, that no event which I can foresee to be attainable by any exertions in the discharge of my duties, can afford me so much cordial satisfaction as to conduct a negotiation with the French Republic, to a removal of prejudices, a correction of errors, a dissipation of umbrages, an accommodation of all differences, and a restoration of harmony and affection, to the mutual satisfaction of both nations. And whenever the legitimate organs of intercourse shall be restored, and the real sentiments of the two Governments can be candidly communicated to each other, although strongly impressed with the necessity of collecting ourselves into a manly posture of defence, I nevertheless entertain an encouraging confidence that a mutual spirit of conciliation, a disposition to compensate injuries, and accommodate each other in all our relations and connections, will produce an agreement to a treaty consistent with the engagements, rights, duties, and honor of both nations.

JOHN ADAMS.

UNITED STATES, June 3, 1797.

**MONDAY, June 5.**

***Defensive Measures.***

The House then resolved itself into a Committee of the Whole on the state of the Union, and the Speech of the PRESIDENT, at the opening of the session, having been read,

Mr. W. SMITH said, he wished to lay upon the table a number of resolutions, which it appeared, if it should not be found advisable to carry the whole of them into effect, were at least worthy of discussion. He did not, however, at present, pledge himself to support the whole: they were as follow:

"1. *Resolved*, That further provision ought to be made by law, for fortifying the forts and harbors of the United States.

"2. *Resolved*, That further provision be made by law, for completing and manning the frigates United States, Constitution, and Constellation.

"3. *Resolved*, That provision be made by law, for procuring by purchase a further naval force, to consist of — frigates of — guns, and — sloops of war of — guns.

"4. *Resolved*, That provision be made by law, for empowering the President to employ the naval force of the United States, as convoys to protect the trade thereof.

"5. *Resolved*, That provision be made by law, for regulating the arming of the merchant vessels of the United States.

"6. *Resolved*, That the existing Military Establishment ought to be augmented by an addition of one regiment or corps of artillerists and engineers, and — companies of dragoons.

"7. *Resolved*, That provision be made by law, for empowering the President to raise a provisional army, to consist of — regiments of infantry, one regiment of artillery, and one regiment of dragoons, by commissioning the officers, and by volunteers or enlistments, whenever the circumstances of the country shall, in his opinion, render the said army necessary for the protection and defence of the United States: *Provided*, That neither the officers nor soldiers shall receive any pay or emoluments until called into actual service.

"8. *Resolved*, That provision be made by law, to authorize the President to borrow, on the credit of the United States, a sum not exceeding — dollars, to defray the expense which may arise in providing for the defence and security of the United States.

"9. *Resolved*, That provision be made by law, to raise a revenue adequate to the reimbursement, within — years, of such sum as may be borrowed, as aforesaid.

"10. *Resolved*, That provision be made by law, to prohibit, for a limited time, the exportation of arms, ammunition, and military and naval stores."

The resolutions having been read from the chair,

Mr. W. SMITH moved the first of them.

Mr. GILES wished the gentleman would reverse his propositions, and let the one for raising money come first. He did not know whether they were prepared to meet this expense. He did not mean to oppose the present motion; he supposed it would pass. But he thought they were about to be too precipitous in their measures. At a time when all Europe seemed to be tired of war, and about to make peace, we seemed to be disposed to rush into it. He did not believe that much good would be done by this system of fortification. He did not think the United States were more secure now, than before they had a single work of the kind. We have, said he, an extensive sea-coast, and it was not to be expected that an enemy would choose to come to precisely the place where a fortification stands. It was his opinion that the interests of the country would be served, by letting this matter lie over till next session.

Mr. WILLIAMS observed, that the sense of the committee should be first taken upon the propriety of going into the measure; if there was a majority in favor of it, (and he could not doubt it,) the matter would be referred to a select committee, who would make their report upon it.

Mr. S. SMITH was in favor of going into this measure; for if the war continued in Europe, he thought it probable we might be drawn into it.

Mr. SWANWICK should not be opposed to the present motion, because he agreed with the gentleman from Maryland, that whilst the war continued in Europe there was a probability of this country being drawn into the vortex. But he thought there was some weight, also, in the observation of the gentleman from Virginia, with respect to the ways and means; because, if, after they should agree to carry into effect certain measures, they should disagree about the means, their time would have been spent to no purpose.

The question was put and carried, there being 62 votes in favor of it.

### ***Completing and Manning the Frigates.***

Mr. GALLATIN said, if the question was to determine the principle of manning the frigates, the resolution stood right as it was. But if it were not intended, by adopting this resolution, to commit any man, but only to say that they would take the business into consideration, and if found useful and necessary, and funds were attainable, they would carry it into effect, then the amendment of the gentleman from New York (Mr. LIVINGSTON) would be proper. As to the committee's rising, he could see no ground for it, as these propositions were not new—they had had them before them for three weeks in the Speech of the PRESIDENT. Of course, so far as related to the frigates, gentlemen must have formed an opinion; yet he agreed that it was desirable to see some documents on the subject, before a decided affirmative or negative was given. He was, therefore, in favor of the amendment for a committee to be appointed. He wished all those subjects which were of a doubtful nature to be then determined. On the other hand, those upon which members were ready to decide at once, either by an acceptance or rejection, might be voted upon in the form in which they were introduced.

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Mr. PARKER read the motion which was entered into last year, and thought it would be a good model for the present.

Mr. W. SMITH was of a different opinion. He thought the committee should first decide the abstract principle. He thought it would be wrong to refer to a select committee a business in which every member was so intimately interested, and he doubted not gentlemen were ready to decide upon this abstract question. With regard to expense, he was of opinion that if the situation of the country required it, that should be no object. If gentlemen thought differently, they would of course negative the proposition. Any information on the subject could be got before the business was finished. He thought they should first say what were the necessary objects of expense, and then provide the money, which might be done by borrowing or by taxes. If there was a necessity for the expense, there was no doubt the money would be raised. If gentlemen were not prepared to discuss the subject, he had no objection to the committee's rising, and, in the House, the Secretary of War might be called upon for information.

Mr. NICHOLAS thought the question was not fairly presented. It was whether they should man the frigates. But when they were called upon to determine this, they should know when they would be ready to receive the men. The probability was that the frigates would not be ready to receive the men before the next session of Congress.

Mr. DAYTON (the Speaker) was in favor of the original proposition. He wished to provide for manning all the frigates which could be got ready before the next session of Congress. He believed if they adopted this plan, unnecessary delay would be prevented.

Mr. PARKER was ready to vote for the proposition of the gentleman from South Carolina. He believed the frigate in Philadelphia might be equipped, rigged, and manned, in three months. The only reason why he varied his motion was, that he might include the next proposition; but he believed it would be better for them to stand separate, as, before he voted for the additional vessels, he should wish to know how the means were to be got, and for what purpose they were to be used. The vessel at Boston, he said, would not be ready so soon, but it would be in readiness before the next meeting of Congress; that at Baltimore would be in readiness to receive her men in four months.

Mr. S. SMITH said, the frigate building at Baltimore would be launched on the 4th of July, and the equipments were in greater forwardness than those for the frigate at Philadelphia.

Mr. BALDWIN was against referring this proposition to a select committee. It would be desirable, indeed, to know what the cost of doing the business would be, but every one knew how little to be

relied upon were estimates of this kind. He was ready to vote for manning the frigates; indeed there was no question upon which he was so ready to say aye, as upon this.

The question was about to be put on Mr. LIVINGSTON'S motion, when

Mr. VARNUM said he thought the wording of the resolution improper, as the word "completing" would clash with the act of last session.

The question was put and negatived, 50 to 34.

Mr. MACON wished the frigates to be completed, but not manned, he therefore moved to strike out the words "and manning."

The question was put and negatived; there being only twenty-four votes in favor of it.

Mr. GILES moved to strike out the word "completing;" but, after some conversation, the motion was withdrawn, and the original resolution was carried.

The third proposition next came under consideration.

Mr. NICHOLAS hoped the gentleman who introduced this motion, would tell them for what purpose these additional vessels were wanted. He supposed this resolution to be connected with the next, and if so, he thought they should be considered together. What, he asked, were to be the instructions given to the commanders of these vessels? He thought it a very embarrassing business, and one that would certainly lead to war; nay, indeed, the thing seemed to be a war operation in itself.

Mr. W. SMITH wished the gentleman had made his inquiries before. They would have come more properly when the frigates were under consideration, as the same objection would be against both; and the next resolution had no more connection with this than with that already agreed to. The gentleman seemed to have let go the opportunity of calling upon him; as, however, he did not wish to evade his call, (though he was not willing to say he would himself vote for the measure,) he would say that it appeared to him, from the present state of the commerce of this country, to be necessary to provide convoys for our vessels. These vessels might not, indeed, be employed as a regular convoy, but partly confined to the coasts and harbors.

Mr. NICHOLAS expected the gentleman from South Carolina would have acknowledged that the two resolutions were connected. Indeed he must have intended those vessels to be employed in this way, or such a resolution would not have been introduced. With respect to Sweden's treaty for a reciprocal convoy, there was some ground for it, as there was a difference between the Northern Powers of Europe, as to the principle of free ships making free goods; but where there was no difference as to the principle, no such thing could take place.

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Mr. GALLATIN said the present resolution was certainly in some degree connected with the next. It was understood that the purchasing of frigates and sloops of war, was for the purpose of convoying our trade. Under the present circumstances of this country, he should be opposed to this proposition; not that he denied the right of neutral powers to afford convoys to their merchant vessels; but, because under present circumstances it was impolitic to adopt the measure, not only for the reasons urged by the gentleman from Virginia, but on account of our situation with respect to France at the present moment. By our treaty with France, enemy's property was to be respected on board of American vessels, and certain articles used in the building of ships were not considered as contraband; the PRESIDENT would, of course, be obliged to give orders to have our vessels protected in this situation, and who could not see that this would be the source of war; and if the convoy were not to be employed to enforce these two privileges, he did not see what use it could be of. He knew that depredations without number had been committed in the West Indies; but he was led to believe that this was done by pirates more than by any other vessels. But suppose it were practicable to distinguish between those vessels which were regularly, and those which were piratically taken; yet, he must confess he would not be for running the risk of a rupture, by sending out armed vessels to contest the point, especially when we have reason to believe that these attacks are unauthorized by the French Government.

Mr. G. thought it would only be necessary to extend our navy in case of war, and were this unhappily to be our situation, vessels might easily be purchased without delay; but whilst we were at peace, he did not think the advantages which could be derived from a convoy would be a sufficient inducement to go into the measure. Besides he was induced by another motive to give this proposition his negative. He knew the depredations upon our commerce had been great; but he did not look upon this loss as falling only upon merchants. There was not an individual who did not bear a part of it.<sup>[17]</sup> For instance, if a merchant paid ten or fifteen per cent. additional upon his cargo, he will put a proportionably high price upon his commodities, which must eventually be paid by the consumer. Therefore, so far as an argument might be drawn from this circumstance, it became a question of expediency, and he thought it would be granted, that the loss to individuals would be less in this way than if they had to support a navy to protect our trade.

Mr. W. SMITH acknowledged that there was considerable weight in the arguments of the gentleman from Pennsylvania, though he did not find sufficient weight in them to change his opinion of the propriety of the measure. The gentleman from Virginia had endeavored to show that, as there was no difference of opinion as to principle between France and this country, the regulations entered into with Sweden did not apply; whilst the gentleman from Pennsylvania had produced arguments to show that we were in that situation. With respect to the treaty articles in dispute, it would be an easy matter for the President to give the commanders of our vessels proper instructions on that head. And would any gentleman say it was not right to defend our



vessels against pirates? Would not the French say, if they were applied to for redress, "You knew these were pirates; why did you not defend yourselves against them?" The expense, which seems so much to alarm gentlemen, should be put out of the question. The only question, said he, is, if your property is unjustly attacked, will you defend it?

But it was said the loss did not fall upon the merchant, but upon the consumer. Mr. S. asserted it fell upon the country; and so far from the expense of the proposed armament being equal to the loss sustained by captures, it would not, in his opinion, be a tenth part of the amount, for whatever the plunderers got this country lost. Mr. S. said he had made a rough calculation of what would be the expense of three frigates, of 32 guns, and six sloops of war of 16 guns, and found it to be \$926,000, including the equipment and manning for one year.

Mr. GILES said, the gentleman from South Carolina talked of defensive measures, but his plans were offensive. That gentleman had undertaken to doubt the right of France to declare her ports rebel ports. Was this defensive? Every nation had this right. It was not long since Great Britain exercised it against us. Yet, aided by a convoy, he wished to push our trade to these ports. This would not only be hazarding the peace of the country, but taking the direct road to war.

Besides, said Mr. G., could it be expected that six or ten frigates could convoy all our vessels? No; not a twentieth part of them. They could, therefore, be of little use, but might be the means of producing the greatest evil to the country.

Mr. BALDWIN said, in all their determinations with respect to a naval force, however great the emergency, it has always been determined to build, rather than purchase vessels, and he saw no reason for departing from this mode in the present instance.

After some objections from Mr. W. SMITH to the building plan, which he said would take three or four years to furnish the proposed vessels, whereas merchant vessels might be immediately purchased, which would answer the purpose of small frigates, the committee rose, reported the two resolutions, which the House took up and agreed to, and committees were appointed to report upon them by bills or otherwise.

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**WEDNESDAY, June 7.**

***Defensive Measures.***

**ARMING MERCHANT VESSELS.**

The 5th, which was in the following words, having been read,

"*Resolved*, That provision be made, by law, for regulating the arming of merchant vessels of the United States,"

Mr. SWANWICK inquired, with what view these vessels were to be provided? Against whom they were to be employed? and in what cases they were to defend themselves? The information which he might receive on these inquiries, he said, would have considerable weight in influencing his vote.

Mr. HARPER said the detail would be brought forward in the bill; the principle was now only to be determined. He had not thought of all the modifications which might be given to it, though he had thought of many; but it would be best discussed in its general form. The gentleman, if he thought proper, might introduce into the resolution any principle which he might wish to have inserted in it.

Mr. WILLIAMS said it was well known that a number of our merchantmen were arming in different ports of the Union, and it was, therefore, necessary to regulate this business, to prevent mischief being done. Gentlemen might differ in opinion with respect to the marine law or laws of nations on this subject; but all would wish, since vessels were arming, that they should be put under some restraint. When he voted for manning the frigates, he did it with a view to have them employed in the defence of our coasts, and not as a convoy. Our situation, he said, was truly critical, and he was undetermined how far it would be proper to arm the merchant vessels of the United States; but to prevent mischief, he wished the resolution might be agreed to, reserving to himself the right of voting ultimately for or against it. It might afterwards undergo such modifications as should be found necessary.

Mr. LIVINGSTON said the gentleman from Pennsylvania had very properly inquired what was the scope of the present resolution, and he expected some answer would have been given. The gentleman from South Carolina had said they must vote for the principle, and the detail would come of course. So that without knowing its object, whether it was defensive or offensive, they were called upon to agree to the principle. This deficiency had been supplied in some degree by the gentleman from New York. He says the merchants have undertaken to arm their vessels. He wished to know whence he derived his information? The only information before them was in the PRESIDENT'S Speech, where he says he has forbidden such armament, except in the East India trade. He therefore supposed the fact not well founded. What, he asked, was intended to be done with these armed vessels? He said they must argue hypothetically. He supposed they were intended to protect our trade. He did not believe they were meant to operate offensively. But he would ask if this were the case, if it would not lead directly to war? since individuals would be left to determine the laws of nations, and of course the peace of the country would be placed at their disposal, and all precautions, on the part of Government, would be in vain, since individuals, who might have an opposite interest to that of the Government, might be continually committing acts

of hostility.

Mr. S. SMITH acknowledged that the present was a very delicate subject; but had not the PRESIDENT forbidden the arming of merchant vessels, he should have been of opinion that the merchant vessels of a neutral power had always a right to arm for their own defence. But he believed it was necessary that something should be done. Merchants would arm their vessels from the right given to them by the law of nations, and, if not restrained, might go on to do acts which could not be justified. Though he believed merchants possessed the right of arming their vessels, yet, rather than do any thing which would involve the country in war, he believed they would desist from the practice, and bear the losses which they might, for the want of arms, suffer. He moved to strike out the word "regulating," and to insert in the place of it "restricting in certain cases."

Mr. GALLATIN said it seemed as if the motion of the gentleman from South Carolina was susceptible of any shape, since the amendment now incorporated into it seemed to have a different view from the original. At present he would state his objections to the principle of the resolution itself. The first inquiry was, whether the law of nations permitted the merchant vessels of neutral nations to arm? If they had not a right to permit it, whether they are not bound to prohibit it? He had examined the law of nations on this subject, and found no such authority, nor did the practice of modern times justify the practice. He took a view of the different stages of society, to show that whenever regular governments were established, the public defence was always placed in them, and it was their duty to protect individuals, since they did not give them leave to protect themselves.

Mr. G. said he knew of no exception but in case of letters of marque and reprisal, and he did not know a single instance within the last century where these had been granted, but war had been the consequence, so repugnant were they to the present state of society. It was true, nations might be in such a state as to find it necessary to grant such a power; as when a nation with which it has to do is unable to support the common relations of intercourse. Two instances of this kind presented themselves, viz: the East India trade and the Mediterranean trade. In carrying on our trade with the East Indies, our vessels were met by those of a number of uncivilized powers, upon whom no restraint could be had, so that no remedy was left to us, but immediate resistance. Nearly of the same nature was the situation of the Barbary Powers in the Mediterranean; and, although we enter into a treaty with them, we have not a perfect reliance upon their observing their engagements; our merchant vessels are therefore permitted to trade to those parts armed. He knew it might be said that, at present, the West Indies were in a similar situation. He believed, in some respects, they were; and this could be the only plea for adopting a measure like the present. If it were to be understood that there was to be an end of the negotiation with France, or that the privilege of arming would not be abandoned, it might be proper to authorize the arming of merchant vessels; but he believed, if it were considered that such a permission would be almost certain to involve us in war, it would appear to be much more wise to await the event of the negotiation with France; not that he was afraid of offending France by a measure of this kind, but he was afraid of involving our country in a war.

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Mr. S. SMITH conceived that Congress were called together to adopt such measures as were best calculated to preserve the peace of the country, by means of negotiation, and to fix upon such means of defence as would not be injurious to the country. It was his opinion that the President was not authorized by law to prevent the vessels of merchants being armed; but the merchants of the United States would readily submit to any loss rather than go to war. He knew that this was the opinion of the Philadelphia merchants: he had seen many of them. Nor had he met with one native American who wished to go into this arming plan; they believe it would infringe our neutrality, and throw us into a war. When he came here, his mind was scarcely made up on the subject. He did not like to give up his right to defend his property; but he had found this to be the general opinion, and therefore he brought forward the amendment, which had been well amended by the gentleman from Connecticut. The gentleman from South Carolina had since added *West Indies*, and this brought them to an issue; for it was war or no war.

If the latter amendment was agreed to, he should be for striking out the whole, leaving it general; because, with *West Indies* in it, it would be particularly pointed.

They had been told of the loss sustained by spoliations, and where it fell. He believed it fell upon the great body of the people of America, and that the fall in the price of produce had been occasioned principally by the British Admiral having forbidden the carrying our provisions to Hispaniola. The British fleet in the *West Indies*, he said, was supplied with provisions from Ireland, whilst the French depended upon this country for supplies; so that they were our best customers there.

## FRIDAY, June 9.

STEPHEN BULLOCK, from Massachusetts, appeared, produced his credentials, was qualified, and took his seat.

### *Defensive Measures.*

#### NAVAL FORCE.

Mr. W. SMITH said, he had waived a consideration of the third and fourth resolutions, in order to pass to the fifth, because he thought it was probable the committee would have determined upon

arming our merchant vessels; and if so, it might have influenced the votes of members on those; but, as the committee had just decided against arming merchant vessels, he should propose another resolution to the committee. It was well known that the three frigates which had been agreed to be manned, would not be ready for sea for several months; in the mean time there might be occasion for some armed vessels; he should, therefore, submit to them the following resolution:

"*Resolved*, That it is the opinion of this committee, that the *President of the United States* ought to be authorized by law to provide a further naval force, whenever, in his opinion, the circumstances of the country shall require the same; and that — dollars be appropriated for that purpose."

The CHAIRMAN said the resolutions of the gentleman from North Carolina were first in order.

Mr. W. SMITH said he had no objection to the proposition of the gentleman from North Carolina, as a part of a plan of defence, but he thought it also necessary to attend to the protection of our commerce.

Mr. BLOUNT said, it was perfectly indifferent to him whether the gentleman from South Carolina considered his plan as a part or the whole of a system. That gentleman had accused those who voted against his proposition, with being unwilling to place the country in a posture of defence. Now, he had voted against, and should continue to vote against, his proposition—but he was willing, notwithstanding (as he believed all those who voted with him were) to put the country in a state of defence. It was his opinion that internal defence only was necessary. He thought the system which he had proposed would be sufficient. When they had adopted this resolution, it might be considered whether any thing more was necessary. He had no idea of creating a naval force for defence; on the contrary, he believed it would be the means of plunging us into fresh difficulties. For this reason, if the resolution he had proposed were passed into a law, he should go home satisfied, with a belief that he had done all that was necessary. And he was convinced that his constituents would believe that he never wanted a disposition to defend his country when in danger.

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Mr. W. SMITH did not think these propositions could be of any use at present; they would be very proper in case an invasion was apprehended. He thought the principal object, at this time, was to defend our commerce, and thereby secure the revenue arising from it, either by an effectual naval armament, or by an embargo; and he thought he was correct in saying, in reference to this defence, that the gentleman opposed every thing, and proposed nothing. Gentlemen, he said, were very ready to propose things which would cost the public nothing: the militia measure proposed would cost no more than the passing of the law; but, if ever any expense was to be incurred, then all was opposition.

The commerce of the country could not be defended, without calling upon the people for revenue; and he thought those gentlemen who stepped forward to advocate such measures as involved expense, and which were consequently in some degree unpopular, deserved the gratitude of their constituents. He had never hesitated to do this, when he thought it necessary. He should not, however, object to the passing of this proposition; he only rose to say, he did not think it immediately necessary.

Mr. W. SMITH called for the reading of a similar resolution passed in 1794; which being read, and a wish expressed that the present might be made conformable to it, Mr. BLOUNT gave his consent; and, after a few observations from Mr. WILLIAMS in favor of the resolution, though he denied that it could be carried into effect without expense, the resolution was agreed to.

## **SATURDAY, June 17.**

A bill was reported forbidding citizens of the United States from entering into the service of any foreign Prince or State in a state of war, which was read twice and committed to a Committee of the Whole on Monday.

### ***Stamp Duties.***

Mr. W. SMITH, from the Committee of Ways and Means, reported a bill for laying a stamp duty on vellum, parchment, and paper, viz:

For a license to practice as a counsellor, attorney, &c., five dollars.

For every grant, or letters patent, four dollars.

For every exemplification or certified copy of letters-patent, two dollars.

For every receipt or discharge for any legacy of fifty dollars and not more than one hundred dollars, twenty-five cents; above one hundred and not more than five hundred dollars, fifty cents; and for every additional five hundred dollars, one dollar; but not to extend to legacies left to a wife, children, or grand-children.

For every policy of insurance of vessels or goods from one district of the United States to another, twenty-five cents.

For every such policy of insurance to a foreign port, for a sum not exceeding five hundred dollars, twenty-five cents; if it exceeds five hundred dollars, one dollar.

For every exemplification, of what nature soever, fifty cents.

For every bond, bill, or note, (except the note of the chartered banks which may be now or hereafter in existence,) not exceeding one hundred dollars, ten cents; above one hundred dollars, and not exceeding five hundred dollars, twenty-five cents; above five hundred dollars, and not exceeding one thousand dollars, fifty cents; above one thousand dollars, seventy-five cents. (If payable within sixty days, they will be chargeable with only two-fifths of these duties.)

For every protest of a note, twenty-five cents.

For every letter of attorney, twenty-five cents.

For every certificate or debenture, for drawing back any duty on the re-shipping of goods, one dollar.

For every note or bill of lading, for goods from one district to another, within the United States, (not in the same State,) ten cents.

For ditto to a foreign port, twenty-five cents.

For every inventory or catalogue of furniture, goods, or effects, in any case required by law, (except in the case of distraining for rent, or an execution,) fifty cents.

For every certificate of a share or shares in the Bank of the United States, or other bank, ten cents.

The bill was twice read, and ordered to be committed to a Committee of the Whole on Monday.

### **WEDNESDAY, June 21.**

#### ***Expatriation.***

The SPEAKER having informed the House that the unfinished business of yesterday, viz: the bill prohibiting citizens of the United States from entering into the military or naval service of any foreign Prince or State, had the priority.

Mr. GALLATIN moved to have it postponed, in order to take up the bill respecting an additional naval armament. This motion was supported by Mr. GILES, and opposed by Mr. W. SMITH, and negatived, 35 to 34.

The bill respecting foreign service was then taken up, and, on motion of Mr. HAVENS, it was agreed to leave the time for its taking place a blank.

Mr. COIT moved to strike out the sixth section.

[It defined the mode in which a citizen of the United States might dissolve the ties of citizenship, and become an alien.]

Mr. SEWALL hoped it would be struck out. In every country in the world where civil society was established, the citizens of that society owed a certain duty to their Government, which they could not readily get rid of; but they were about to establish a principle to put it in the power of the citizens of the United States, at their will, and without any pretence, to say they would be no longer subject to the Government; and this is at a moment of danger, when citizens of other countries might be called home from this country. He thought this would be extremely wrong; it would be giving an opportunity for insult to our courts and country, and he was sure no nation would show us so much complaisance in return.

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Mr. CLAIBORNE thought it no more binding for citizens born in the United States to continue citizens of the United States, than it was for a Roman Catholic or Protestant to continue of that opinion, when he arrived at the years of maturity and could judge for himself. He insisted upon it, men had a natural right to choose under what government they would live; and they had no reason to fear our citizens leaving us whilst our Government was well executed. He did not wish citizens of the United States to be in the situation of subjects of Great Britain, who, though they had left the country forty years ago, were liable to be considered as subjects of that Government. He trusted the rights of man would not be thus infringed, but that they should allow the right of expatriation unclogged.

Mr. SEWALL said, there was a great difference between the two cases which the gentleman had stated. A man born and educated in a country certainly owed it obligations, which were not to be shaken off the moment he chose to do so. The different societies of the world, he said, were like so many families independent of each other; and what family, he asked, would suffer any of its members to leave it and go into another when they pleased? He thought it unreasonable that it should be so.

Mr. W. SMITH said, that the doctrine of perpetual allegiance was derived from Great Britain, and, though it might be good in theory, was not so in practice. They had departed from many doctrines derived from that country, and the time was come, he believed, for departing from this. The idea of a man being compelled to live in this country, contrary to his will, seemed to be repugnant to our ideas of liberty. He thought when a man was so disgusted with a country as to resolve to leave it, for the purpose of becoming a citizen of another country, he should be at liberty to do so on his complying with certain formalities, and should never again be re-admitted. It was upon this principle that this section is founded, and he thought it valuable.

Mr. S. thought this section essential, as it would be a means of preventing quarrels with foreign

countries. For instance, if a citizen of this country took command of a French ship of war, and were to commit hostilities on the property of citizens of the United States, if he were taken he might allege that he was a citizen of the French Republic, and that Government might claim him as such; but if this bill passed, no man could cover himself under this pretence who had not complied with the requisitions in this act. He mentioned the case of Mr. Talbot.

Mr. S. said they held out inducements for persons to come to this country. We did not allow they owed allegiance to any other country after they had become citizens of this. To grant this would be a fatal doctrine to this country. It would be to declare that, in case we were at war with another country, that country might recall persons from this, who formerly came from thence. Many persons of that description were amongst us. At present they enjoy all the benefit of our laws and vote at our elections; and yet, if this doctrine were admitted, these persons might be recalled as aliens; and if they were not recalled, they would be considered as qualified aliens, and not as real citizens.

This law, Mr. S. said, was necessary, as at present there was not sufficient energy in the Government to punish persons serving on board foreign ships of war. This bill would cure the evil, and give an opportunity for turbulent, discontented characters to leave the country for ever. He believed it was the general opinion of the citizens of this country that they had the right to expatriate themselves, and he thought it was now a proper time to pass some regulations on this subject.

Mr. SITGREAVES thought this one of the most delicate and important subjects that ever came before Congress. He saw a number of difficulties, but he thought they were not of a nature to discourage them from considering the bill. He trusted they should meet them with firmness.

The evil, he said, which gave rise to this bill was a great and growing one. In the first war which had taken place in Europe since our independence, they found this doctrine of expatriation, as claimed by our citizens, endangering our peace with a foreign nation, and if this principle were admitted he feared we should always be liable to similar embarrassments.

Mr. S. took notice of the different objections made to this section. He observed there seemed to be much doubt on the subject, which he thought ought to be removed by passing a law of this sort. He wished he could agree in the opinion that no citizen had a right to expatriate himself from this country. He thought it a doctrine essential to the peace of society. He wished it was generally recognized; but he believed the major opinion in this country was different; and, though not directly, it had in a great degree been recognized by the Executive and Judiciary in the cases of Hinfield and Talbot. He feared, therefore, it was too late for them to say the right did not exist. It was time, however, for Congress to declare an opinion on the subject. If the proposition in the bill was not a proper one, it should be made so.

In the State of Virginia this doctrine was legalized, and in the constitution of Pennsylvania it was strongly indicated, as it said "emigration should not be prohibited." It was a favorite idea of a republican Government not to forbid it. He did not agree with the principles of the clause in all its parts. He thought citizens ought not to be allowed to expatriate in time of war, as their assistance would be wanted at home. It was his intention to have moved an amendment allowing expatriation only in the time of peace, and an express provision against it in time of war. He thought the doctrine of the gentleman from Maryland, viz: that our citizens ought to go into other countries to learn the art of war, was chimerical. When they had obtained rank and wealth in a foreign country, it would be in vain to call them back; they would not return. He hoped, therefore, the section would not be struck out, but that they should proceed to amend it.

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Mr. N. SMITH was sorry that the committee who reported this bill had thought it necessary to report the sixth and seventh sections. The doctrine of expatriation on one hand, and perpetual allegiance on the other, were subjects they had all heard much about; but expatriation, under limitation and restraint, was a new business. From its novelty it became doubtful. This being the case, he wished the subject had been deferred to an ordinary session; particularly as it appeared to be no more connected with other parts of the bill than with many other laws now extant. If we were to have a law on this subject, he should wish to have it in a separate bill. For his part, he could not see how the committee could suppose it to be a part of their duty to report these sections. If he had thought it had, he should not have voted for appointing a committee on the occasion.

Gentlemen advocating these clauses, say they would not allow of expatriation in time of war. He would go further and say he would not allow of it when there was a prospect of war, for it is idle to prohibit it in one case and not in the other. He then asked if this was not the very state in which we now were? If it were, why pass such a bill at this time, when it could not go into operation? He thought this a good reason for rejecting these clauses.

There was a mutual obligation, Mr. S. said, between a Government and all its citizens. The Government owed protection to its citizens, and citizens owed obedience to their Government. These duties were mutual and co-extensive; and they might as well say that Government could abandon its citizens when it pleased as that citizens could desert their Government when they pleased. Yet he would allow that Government might, on certain occasions, legalize expatriation, but not on the ground of a citizen's having a right to expatriate when he pleased. He should have no objection to take up the subject at a time when they could do justice to it, but he thought the present was not that time.

The question for striking out the 6th section was put and carried, 45 to 41.

The committee accordingly rose, and the House took up the amendments. Having come to that

part for striking out the 6th and 7th sections,

Mr. DENT called for the yeas and nays, which were agreed to be taken.

Mr. VENABLE said, it seemed to be admitted that a right of expatriation existed in our citizens; and if so, he thought there should be some mode of exercising that right. He had no particular objection to the mode marked out in these clauses. It had been said this was not the proper time; but he thought it was, since it was in some degree connected with the present bill. The gentleman from Connecticut had stated allegiance and protection to be mutual. He did not think they were so, to the extent which he stated. This Government was not bound to protect citizens who went into foreign service, as in doing so they chose the protection of another Government.

Mr. HARPER asked for an instance in which the Executive and Judiciary had countenanced the doctrine of expatriation.

Mr. W. SMITH, in answer to his colleague, produced the case of Talbot, and the opinion given by the Secretary of State and the Judiciary Court, on that occasion, in favor of the right of expatriation.

Mr. GILES thought there could not be a doubt in the minds of Americans on the subject of expatriation. Indeed, he said, this was the foundation of our Revolution; for they were not now to be told they owed allegiance to a foreign country. It had not only been the ground of the Revolution, but all their acts had been predicated upon this principle. He referred to the act respecting the rights of naturalization, which makes every new citizen swear to support the Constitution of the United States, and to renounce all other allegiance.

Mr. GALLATIN was opposed to these sections. With respect to expatriation, having himself exercised the right, he could not be supposed to be opposed to that right. Perpetual allegiance was too absurd a doctrine to find many advocates in this country. The question was not whether citizens had a right to expatriate, but whether they should in this law prescribe a mode of doing it. The right seemed to have been recognized by the Executive and Judiciary. He was against going into this business, because he thought it unnecessary. He believed the determination of who were citizens, and who were not, might be safely left with the Judiciary. He had also his doubts whether the United States had a right to regulate this matter, or whether it should not be left to the States, as the constitution spoke of the citizens of the States. It was a doubtful matter, and ought to undergo a full discussion. The emigrants from this country to foreign countries were trifling; but from ten to twelve thousand of our citizens had gone to Canada, and upwards of five thousand beyond the Mississippi, four thousand of whom would be got back by the running of the lines. A number of these men hold lands in the United States; some have sold their lands and become citizens under another Government. This subject would, therefore, require considerable deliberation at a future day. He wished the amendment of the Committee of the Whole to be adopted.

Mr. SITGREAVES confirmed his former statement, with respect to the question of the right of expatriation having been settled by the Judiciary. In order to do this, he read a note from one of the counsel in the cases of Henfield and Talbot, giving an account of the opinions of the court on the occasion.

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Mr. SEWALL insisted upon the policy of preventing the renunciation of allegiance, without control. The Treaty of Peace with Great Britain, he said, had dissolved our allegiance to that country, and acknowledged our independence.

Mr. GILES believed the evil apprehended from individuals having the right to expatriate themselves when they pleased, was more imaginary than real. Only two citizens had taken advantage of that right in the State of Virginia, where it was allowed in all its extent, in twelve years. But if there were any citizens so detached from the Government as to wish to leave the country, he should wish them gone. To suppose this, would be to suppose a real division between the people and Government, which he did not believe had existence. It was said Great Britain did not allow the doctrine of expatriation; but, he said, she had not any naturalization law. He was in favor of excluding citizens who once expatriated themselves from ever returning to this country.

Mr. OTIS said, that when this bill was first reported, these clauses struck him unfavorably; but a little reflection had convinced him of the propriety of retaining them. The passing of this provision, he said, would not affect the constitutional right with respect to expatriation, whatever it might be. This bill did not relate to persons emigrating into the Spanish or English territories, but to persons expatriating themselves, and engaging in the service of foreign countries.

The question on agreeing to the reports of the Committee of the Whole to reject the sixth and seventh sections of the bill was taken, and stood—yeas 34, nays 57.

All the amendments having been gone through, Mr. S. SMITH moved to postpone the further consideration of the bill till the first Monday in November.

This motion was supported by MESSRS. VARNUM, N. SMITH, BALDWIN, GOODRICH, and COIT, as involving a question of too delicate and important a nature to be passed over in this hasty manner, and because there was no pressing necessity to go into the measure at present.

It was opposed by MESSRS. OTIS, WILLIAMS, W. SMITH, and CRAIK, on the ground of the provision of the bill being necessary, and that to postpone the business, after so ample a discussion, would be undoing what they had been doing for two or three days.

The question for postponement was taken, and decided in the affirmative—yeas 52, nays 44.

The bill being thus lost, Mr. W. SMITH proposed a resolution to the House for appointing a

committee to report a new bill without the two last clauses, which, it was evident, had been the cause of the negative given to the bill. As he supposed no opposition would be made to the bill so reported, it might be got through without loss of time.

After some conversation on a point of order, whether or not this resolution could be admitted, the SPEAKER declared it in order, but Mr. COIT wishing it to lie on the table till to-morrow, it lay accordingly.

## THURSDAY, June 22.

### *Expatriation.*

Mr. W. SMITH called up the resolution which he yesterday laid upon the table, for appointing a committee to bring in a bill for prohibiting citizens of the United States entering on board foreign ships of war, without the expatriating clauses.

This resolution was opposed by MESSRS. BALDWIN, GILES, and VENABLE, and supported by the mover and Mr. HARPER. It was negated—49 to 46.

### *Depredations on Commerce.*

A message was received from the PRESIDENT OF THE UNITED STATES, of which the following is a copy, with the titles of the documents accompanying it:

*Gentlemen of the House of Representatives:*

Immediately after I had received your resolution of the 10th of June, requesting a report respecting the depredations committed on the commerce of the United States, since the first of October, 1796, specifying the names of the vessels taken, where bound to or from, species of lading, the value, when it can be ascertained, of the vessel and cargo taken, and by what power captured, particularizing those which have been actually condemned, together with the proper documents to ascertain the same, I directed a collection to be made of all such information as should be found in the possession of the Government. In consequence of which, the Secretary of State has made the report and the collection of documents, which accompany this Message, and are now laid before the House of Representatives, in compliance with their desire.

JOHN ADAMS.

UNITED STATES, *June 22, 1797.*

Report of the Secretary of State to the PRESIDENT OF THE UNITED STATES, respecting the depredations committed on the commerce of the United States:

1. Abstract of two cases of capture made by the British cruisers of vessels belonging to citizens of the United States since the first of October, 1796, and wherein documents have been received at the Department of State; also a copy of a memorandum filed by S. SMITH, Esq., relating to captures made by the British of vessels in the property of which he was concerned. No documents accompany the two cases of capture above mentioned, they having been sent to London, in order that compensation might be obtained for the damages suffered.
2. A correct copy of the decree of the Executive Directory of March 2, 1797.
3. Copies of documents remaining in the Department of State, relative to American vessels captured or condemned by the French, since the first of October, 1796.
4. Extracts from communications from the Consuls of the United States, relative to depredations committed on the commerce of the United States by the French.
5. Schedule of the names of American vessels captured by the French, and of the circumstances attending them, extracted from the Philadelphia Gazette, and Gazette of the United States, and commencing with July, 1796.
6. Extract of a letter from Rufus King, Esq., Minister, &c., enclosing the protest of William Martin, master of the Cincinnatus, of Baltimore, relative to the torture inflicted on the said Martin by a French cruiser.

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Mr. GILES moved that the above papers should be referred to a select committee, to print such as would be useful to the House.

This question was negated—50 to 46, and a motion carried for printing the whole.

### *Day of Adjournment.*

Mr. GILES called up the motion which had some days ago been laid on the table respecting an adjournment.

Mr. GALLATIN wished to modify his motion, by making the proposed day of adjournment the 27th instead of the 24th instant.

Mr. SITGREAVES moved for the yeas and nays on the question.

Mr. MACON moved to make the day the 28th, which was consented to by the mover.

Mr. DENT proposed to make it the 30th.

The question was taken on adjourning on the 30th, and negatived—there being only 28 votes in favor of it.

The question on the resolution for the 28th was carried—yeas 51, nays 47.

## **SATURDAY, June 24.**

### ***Protection of Trade.***

#### **NAVAL ARMAMENT.**

The bill for providing for the protection of the commerce of the United States was read a third time, and the blank for filling up the number of men to be employed in the cutters, was filled up with thirty; on the question being about to be put on the passing of the bill,

Mr. NICHOLAS said some statements had been received from the War Department, and ordered to be printed. He had not seen a copy of them, but was informed there were yet wanting \$197,000 to complete the frigates. He wished information on the subject.

Mr. PARKER read an extract from the account which had been printed.

Mr. NICHOLAS wished to know how it happened that in four months so great a mistake could have occurred as to the expense of finishing these vessels. When the last appropriation of \$170,000 was made, they were told that sum would be sufficient to make them fit to receive the men on board, but now they were called upon for \$197,000 more. He thought this matter ought not to pass over without inquiry, as he did not like to be drawn from step to step to do what, if the whole matter had been seen at first, they might not have consented to. He trusted this was not intentionally done, but he owned it looked very suspicious.

Mr. PARKER believed the estimate of last session was only to make the vessels ready to receive the guns on board, and did not include the guns.

Mr. GALLATIN said, as he meant to vote against the passage of the bill, he would briefly state his reasons for doing so. He knew only of two arguments in favor of the bill; the first, that it was necessary during a time of peace to lay the foundation of a navy; the other was, that, the frigates being built, it would be proper to man them. As to the propriety of having a navy, he did not mean to go generally into the subject, but he would make a few observations as to our situation for engaging in an establishment of this kind. Suppose that navies were necessary in European nations, to increase their power or to protect their commerce, these considerations did not apply to our present circumstances. In order to prove this, it was only necessary to take a view of our revenue, and the expense of a fleet.

The amount of revenue from the 1st of April, 1796, to the 1st of April, 1797, received into the Treasury, was \$7,400,000—a sum which by far exceeded that of any former year; and he did not think that the permanent revenue of the United States could be well extended beyond that sum. For instance, he did not think that nine millions could be raised from the people without oppression. Indeed, by the best calculations on the quantity of circulating medium in the country, it was not allowed to exceed eight millions: and he did not believe that any nation could raise a larger sum in taxes than was equal to the amount of their circulating specie.

[Here Mr. Gallatin produced a detailed statement to show the expense of building the three frigates, to wit: \$1,014,450, and the sum of \$350,000 for the yearly expense of keeping them in service, repairs inclusive.]

This statement showed, Mr. G. said, that these frigates had cost about £2,000 sterling a gun, though the common calculation in Great Britain was only half that sum. If, from building the frigates, they turned to the expense of manning them, the same conclusion would be drawn. They found that the pay of an able-bodied seaman in the British navy had lately been raised from 26s. 6d. to 30s. sterling a month, which was \$6 66-2/3; but, by the present law, \$15,000 a month were allowed for the pay of the petty officers, midshipmen, seamen, ordinary seamen, and marines, which averaged from 16 to 17 dollars a man.

When he heard gentlemen stating the advantages of the naval strength of Denmark and Sweden to those countries, he could not agree with them altogether, though he agreed they had some weight; but it was well known that the Grand Navy of Portugal had no weight whatever in the scale of the large navies of Europe; it did not even enable her to protect her trade: for, if either France or Great Britain had the superiority in the Mediterranean, she was under their control. He believed Denmark and Sweden had thirty sail of the line each, and he wished gentlemen to calculate how much it would cost us to have such a navy. A fleet of a few vessels would not then be able to afford protection to our trade; and it was wholly out of our power to have a fleet equal to that of Denmark or Sweden.

Mr. SWANWICK believed the expense of these frigates had been much greater than any future ones would be. When they were told they had cost £2,000 sterling a gun, it was evident there must have been great extravagance in the expense, as merchant vessels might be built as cheaply in this country as in any other. He supposed the extra expense had been owing to the want of some regular establishment to overlook the business, and because it had been undertaken at a time



when other nations were at war, and of course when materials were very high. Sixteen thousand dollars worth of hemp had indeed been burnt by accident at Boston. As to the terms of seamen, though they might at first be high, when the service was known he doubted not they would fall.

Mr. J. WILLIAMS said, he had always opposed the establishment of a navy, and was the question now whether or not we should commence a navy he should certainly be against it; but, as the frigates were so far advanced, he thought they ought to finish them, especially when they considered the present critical situation of our affairs; for, if a general peace did not take place in Europe, the war would probably become a maritime war, and we might be involved in it. But he was still of opinion that if we must go into an expensive naval establishment for the protection of our commerce, we had better have none. But, say gentlemen, where will you find revenue? He believed, though we had no armed force, a considerable commerce would still be carried on,<sup>[18]</sup> and those who declined it would turn their attention to agriculture and manufactures, from which any deficiency of revenue would readily be supplied.

It was true, as had been stated, that they had been called upon from time to time for additional sums to complete these frigates, and he knew not when these calls would end.

Mr. GILES was obliged to the gentleman last up for his speech against the present bill, though he meant to vote for it; he would rather, however, that he had *spoken* in favor, and *voted* against the bill. Mr. G. said he should vote against the passing of the bill, and for the reasons assigned by that gentleman. He thought a navy would be a great evil for this country. Our great interests lay in the soil; and if ever the vitals of the country were to be drawn together for the purpose of protecting our commerce on the sea, he should greatly lament it. He believed the despotism of nations kept pace with the ratio of expense of their Governments. He was sorry to say that he was more and more convinced that it was the constant aim of some gentlemen in that House to increase the expenses of our Government. The propriety of establishing a navy had scarcely ever been seriously considered; it was first begun under an alarm, and it had been continually carried on by the same means.

Mr. HARPER said gentlemen seem to abandon their objections to this bill by admitting that there was no probability it would not pass. But why? Because a majority of the House either think the measure is proper in itself, or from the particular circumstances of this country. It was surely a singular instance of modesty in gentlemen, after this concession, to argue against the passing of the bill.

Mr. H. did not admit that these frigates were commenced from an idea of laying the foundation of a large Navy Establishment, but from particular circumstances; and, said he, shall we, at a time when we are threatened with danger, abandon them? He trusted not; such conduct would be absurd in the extreme, and imply a character of imbecility which he hoped their councils would never deserve.

Mr. ALLEN said, he had some objection to the passing of the bill, but his objections were to the amendments which had been introduced into it, yet he did not know but he should vote for it. He thought there was a provision in the bill which went to prostrate this Government. He alluded to that part of it which directed the manner in which this force should be used. He considered this as a violation of the constitution, besides carrying upon the face of it an idea that one of the branches of this Government could not be trusted with the exercise of its power. Was it possible, he asked, for a Government to exist, when this confidence was refused to one of its branches? What were the people of the United States, and abroad, to think of this? Would not the people of this country think it their duty to destroy a power which could not be trusted; and would not foreigners despise it? It seemed as if this were the intention of gentlemen.

Mr. A. also objected to the clause limiting the duration of this bill; since this went to say that they not only distrusted the other branches of the Government, but themselves. A thing which must in its nature be perpetual, was there limited. He deprecated the idea of expense being an objection to this measure. Our emancipation from the chains of Great Britain, he said, was attended with a great expense; but was it not believed that the liberty and independence of this country were of superior value to money? He trusted they were. He could only suppose, therefore, that men who objected against the expense, must themselves be sordid and avaricious. If these frigates had been provided four years ago, he believed all our present difficulties would have been prevented, and a sum vastly less than that of which we had been robbed would have done the business. Mr. A. denied that ships of war could now be built in England for £1,000 a gun; that was formerly the price, but they now cost £1,500 per gun.

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Mr. NICHOLAS had always been of opinion, that the expense of these frigates was a useless expense; he did not believe a case could happen, except within our own jurisdiction, where these vessels could be of advantage to us; but notwithstanding this was his opinion, he should vote for the passing of this bill, because he saw the sentiments of that House and the public were strongly in its favor, from a persuasion that the measure was necessary, and that the thing would be a continual topic of dispute until it was carried into effect.

He was willing, therefore, to let the vessels go to sea, believing that nothing short of actual experience would convince the supporters of this measure that it was useless, expensive, and injurious; and hoping that by one year's experience of the plaything, finding that money was of greater value than the frigates, all parties would concur in relinquishing it.

The question was then taken on the passing of the bill, and decided in the affirmative—yeas 78, nays 25, as follows:

YEAS—John Allen, George Baer, jr., Theophilus Bradbury, David Brooks, Nathan

Bryan, Dempsey Burges, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, James Davenport, Thomas T. Davis, John Dennis, George Dent, George Ege, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Nathaniel Freeman, jr., James Gillespie, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, John A. Hanna, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Matthew Lyon, James Machir, William Matthews, John Milledge, Daniel Morgan, John Nicholas, Harrison G. Otis, Josiah Parker, Elisha R. Potter, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, of Charleston, Richard Sprigg, jr., John Swanwick, George Thatcher, Richard Thomas, Mark Thomson, Abram Trigg, John Trigg, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Robert Williams.

NAYS—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Thomas Claiborne, Matthew Clay, John Clopton, Joshua Coit, John Dawson, Albert Gallatin, William B. Giles, Andrew Gregg, Jonathan N. Havens, Walter Jones, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Tompson J. Skinner, William Smith, (of Pinckney District,) Richard Stanford, Thomas Sumter, Joseph B. Varnum, and Abraham Venable.

The title was altered from "An act for the protection of the trade of the United States," to "An act providing a Naval Armament."

### MONDAY, June 26.

LEWIS R. MORRIS, from Vermont, and LEMUEL BENTON, from South Carolina, appeared, produced their credentials, were qualified, and took their seats.

*Stamp duties: Naturalization certificates: Lawyer's licenses: Conveyances.*

The House went into a Committee of the Whole on the bill for laying duties on stamped vellum, parchment, and paper; when, the first section being under consideration,

Mr. KITTERA moved to add, "any certificates of naturalization — dollars," as he thought foreigners, who were admitted to all the rights of citizens under this Government, could not be against paying a small tax on their admission to this right.

Mr. MACON thought this tax would fall very heavy upon persons who came into this country to live by their labor—many of whom were not able to pay their passage, but were indented by those who brought them for a number of years; and who, if this tax were paid, would have so much longer to serve.

Mr. BROOKS did not see this objection, as such persons might labor all their lives without becoming naturalized.

Mr. GORDON said, that by the naturalization act, no foreigner could be admitted to the rights of a citizen until he had been five years in the country, and therefore the objections of the gentleman from North Carolina could not have any weight.

The amendment was carried.

Mr. SWANWICK moved to strike out five dollars, and insert ten, for licenses to practise as a counsellor, attorney, &c. He thought, if these gentlemen were taxed at all, ten dollars would be as low a sum as they could well fix upon for the purpose.

Mr. VARNUM thought the tax should be much higher, if imposed at all. He spoke of the high tax laid upon the professors of the law in Massachusetts.

The amendment was carried, there being 53 in favor of it.

Mr. COCHRAN wished the tax to extend to lawyers who practised in the State Courts, as well as to those who practised in the Courts of the United States.

Mr. NICHOLAS objected to this proposition. The lawyers, in some of the States, were already very highly taxed; besides, he doubted the right of the United States to tax the lawyers of the State Courts, as they were necessary in the State Governments.

Mr. SWANWICK did not expect any objection could have been made to a tax so reasonable, especially when the bill proposed to tax merchants so heavily; they would not be able to turn themselves without a stamp, and surely the lucrative profession of the law could not think much of paying this low tax. It was said, indeed, that the merchant did not ultimately pay the duty, but the consumer; and he doubted not the lawyers would not fail to find out a way of making their clients pay the duty.

Mr. DENNIS objected to this tax on the same ground with the gentleman from Virginia. If a tax of this kind, he said, were laid upon the lawyers of the State Courts, it might be extended to any other officer of the Government, and thereby annihilate the State Governments.

Mr. LIVINGSTON was in favor of the amendment, because he thought the State lawyers a fair object of taxation. He denied that it would be unconstitutional, or that it would operate hardly upon a particular class of men. It was not laid upon any particular class; but upon an instrument which,

indeed, to exercise their professions, lawyers would be obliged to have; but it might as well be said that the tax upon rum and sugar would fall heavily upon the sellers of those articles, and that therefore no rum or sugar would be sold. The one tax fell upon the consumer, and the other upon the client. In the State of New York, Mr. L. said, the lawyers were not taxed at all.

Mr. McDOWELL said, when he seconded the motion for striking out "five" for the purpose of inserting "ten" he did not intend the tax to be extended to the practisers in State Courts; nor did he think the constitution would warrant such an extension of it.

Mr. SITGREAVES was in favor of the amendment; he wished to fix the principle. He thought that the State lawyers were a fair object of taxation, and that the profits of their business would very well bear it. But there was reason for making a distinction between the two cases. He thought there would be a hardship in extending the tax to practisers in county courts, as that would cause it to fall in some places very heavily. For instance, in Pennsylvania, there must be a separate admission into every court of every county; so that one man would probably have to pay to the amount of from two to three hundred dollars on account of this tax. He hoped the motion would be postponed for the present, and modified. He would do it himself, if time were given.

The motion was withdrawn.

Mr. SITGREAVES said, he understood that deeds for the conveyance of lands would have been amongst the articles taxed. He thought such a tax would be an eligible one, and in order to learn what were the objections to it, he proposed to add to the bill, "any deed for the conveyance of real estate — dollars."

Mr. R. WILLIAMS said, this proposition had been rejected in the Committee of Ways and Means, on the ground that such a tax would clash with the jurisdiction of the States. He had the same objection to this that he should have to laying a tax upon the State lawyers. To say a deed, which was legal by the laws of a State, could not be received in evidence, except it was stamped, would be tantamount to the repealing of a State law.

Mr. W. SMITH said, this subject had been frequently under discussion, both in the Committee of Ways and Means, and in that House. On this occasion, the majority of the Committee of Ways and Means was against laying a tax on deeds. He was in the minority. There was a provision, Mr. S. said, which declared that no paper upon which a duty was imposed by this act should be admitted in evidence; but there was afterwards a clause which allowed them to be admitted, on payment of ten dollars over and above the duty thereupon payable. He thought the tax would be a very good and a very profitable one.

Mr. COIT thought this was a tax which should be gone into with great caution, since, if it were carried, it might be the means of losing the whole bill. He thought the bill would be better passed without this provision; and if it were found expedient, it might be added hereafter.

Mr. GILES was opposed to this amendment, as interfering with the governments of the several States. All lands (except such as had been sold by the United States) were held from the States; and if this tax were to be agreed to, he believed the State courts would not refuse to admit a deed in evidence which was not stamped. Nothing would give so much alarm to the States as a subject of this sort.

Mr. SEWALL did not understand the distinction made between titles to land and titles to money. He thought the objection made to a tax on a deed, might be made with equal propriety to a tax on a bond or note. If they had a right to say these should not be received in evidence in a State court, unless they were stamped, they had a right to say the same with respect to a deed. Except it could be shown that the farmer was less able to pay than the merchant, he thought no other objection had any weight.

Mr. R. WILLIAMS thought there was a great difference between a note of hand and a deed. The State had nothing to do with the former, but much with the latter; since every State held grants of its lands, and a man must show his title from the original grant, before his title could be said to be a good one. He did not doubt the people being able to pay the tax; it was the principle which he contended against, which, if carried into effect, would cause a clashing of the authorities of the two Governments. If the United States could lay a tax of this sort, they might lay a tax upon every commission issued by a State.

Mr. NICHOLAS did not see the smallest difference between the two cases which had been stated. And when they came to the 13th section, he should endeavor to prove that to say a piece of paper should not be received in evidence in a court, which was lawful to be received by the laws of the State, would be a violation of State sovereignty. He was not of opinion, with the gentleman from Connecticut, that they should take up the subject partially, rather than not pass the bill. He thought it best to consider a tax upon its broadest basis. It was not fair to exclude any thing which stood upon the same ground. He wished the principle to be thus fairly tested. He should, therefore, vote for the tax on deeds.

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Mr. LYON hoped, that if this tax was agreed to, purchases of a small amount would be excluded.

Mr. SWANWICK said there would doubtless be a difference made in the duty between large and small purchases. He also disagreed with the gentleman from Connecticut. The principle, he said, was either right or not; if it were right, it should be made general: if not, it ought not to be adopted.

The question was put, and negatived—47 to 32.

On motion, the committee rose, and had leave to sit again.

*Stamp duties.*

**BANK NOTES.**

The House resolved itself into a Committee of the Whole on the bill laying duties on stamped vellum, parchment, and paper, when

Mr. NICHOLAS moved to strike out the clause exempting bank notes from duty, as he could see no reason why notes upon which a profit was made, should be exempted from duty more than others. He trusted all notes would be placed on the same footing.

Mr. W. SMITH hoped gentlemen did not mean, by moving to strike out this exemption, to destroy the bill. He thought the observation of the gentleman from Connecticut yesterday, against embarrassing the bill by doubtful objects, had weight. On this ground, though he was before of opinion deeds ought to have been inserted, he did not vote for inserting them. He trusted the gentleman had not fully considered the subject, and that when he did so, he would not persist in his motion.

Mr. NICHOLAS believed if the favorite object of every gentleman were to be exempted, there would be nothing left upon which to lay a tax. If to oppose this, were to defeat the bill, he meant to defeat it; as he wished the tax to go to all objects of the same kind. He had no idea of favoring one interest at the expense of another; he hoped, therefore, his amendment would be agreed to.

Mr. LYON expected the gentleman from South Carolina was about to have given some reasons why bank notes ought not to be taxed as well as others; but he was disappointed. He believed those who issued these notes got a good profit from them, and that it was, therefore, reasonable they should pay their proportion towards the support of Government.

Mr. W. SMITH thought the tax an improper one. Banks were taxed in another part of the bill, on the transfer of their shares. A tax on bank notes, he said, would introduce a vast deal of confusion throughout the country. As for himself he did not care any thing about it; but he believed, if it were agreed to, it would produce so many objections against the bill as to prevent its passing.

Mr. BROOKS was against stamping bank notes, as they were not stamped in any country whatever. [19] Indeed they were different from other notes, as they were the representatives of specie; they might, therefore, as well stamp dollars or guineas. In short, the subject was too important and intricate to be gone into at this late period of the session.

Mr. VENABLE said, in proportion as the tax was general, it would be just. What was the object of the bill? It was to tax that right which an individual possesses in society, of transferring his property, and the evidences of it; it was also to tax him for the right he had of using his credit. Though the argument of the gentleman last up might appear specious, that a bank note was the representative of specie, it was not very solid; it was the representative of the credit of the bank, and circulated for its interest. An individual, if he had sufficient credit, might issue notes as well as a corporation; and, in that case, his notes would be charged with the duty, whilst those of a corporation would not. From whence, said Mr. V., is this reasoning drawn? It was drawn from the doctrine of favoritism—it was meant to favor the moneyed interest, which was already sufficiently encouraged by their incorporation. There seemed to be no objection to the principle; but merely to the convenience of the thing. If it could be shown that the tax would materially operate upon the circulation of bank notes, so as to injure the operation of money transactions, it might have some weight with him; but it was none, to say this bill must pass, and therefore let us avoid any thing in which there may be any difficulty. Such assertions went only to this, where you can tax the property of an individual, do it; but do not meddle with corporations, as this would be attended with some difficulty. He wished, if the bill passed, that it should operate equally.

Mr. COIT wished the gentleman from Virginia would withdraw his motion, until he took the sense of the committee upon one which he proposed to make, and which was calculated, if agreed to, to supersede the one he had made. He would state what it was. It was his opinion that small notes should be exempted from duty. He should propose, therefore, that there should be charged on all notes exceeding fifty dollars and not exceeding one hundred dollars, ten cents, and that all of less value should go free.

After a few remarks upon this motion, in which it was observed that it would defeat the bill entirely, as it would only be to make so many more notes at fifty dollars, if the sum were larger, Mr. Coit consented that the fifty should be struck out and left blank; when the question was taken and negatived, there being only twenty-five votes for it.

Mr. NICHOLAS renewed his motion.

Mr. SITGREAVES hoped it would not prevail. It had been admitted that if it could be proved that the stamping of bank notes would embarrass their circulation, it would be a good objection to the tax. He believed he could easily show that it would not only impede their circulation, but depreciate their value. The tax would not certainly be made to operate upon notes already issued, but upon those issued after the act took place; so that it would be necessary that every citizen throughout the United States should be acquainted with the date of their law, which would do away all confidence in bank paper. The result of this uncertainty would be that the banks would have to call in all their outstanding notes, which would cause an immediate depreciation of their value. He trusted, therefore, that so objectionable a measure would not be entered upon.

Mr. GALLATIN said, he had had his doubts with respect to the propriety of stamping bank notes; he was not sure whether it might not have a dangerous effect on their circulation. On a further consideration of the subject, however, all his doubts had vanished. He now thought this amendment essential, just, and right. Indeed, when they proposed to lay a stamp duty upon all bills and notes, there appeared to be no good reason why the notes of any incorporation whatever should be excepted. He had heard only one objection; which was, that these notes differed essentially from others, because they were the real representatives of specie kept in the bank from whence they were issued. He could not see the distinction endeavored to be drawn. Private notes were always given for some consideration, whether for cash or other property, was of no consequence to them. Indeed, if they turned their attention to the nature of bank notes, they would be found to be a very fair object of taxation.

Where an individual gave his note, it was not likely that he would derive any profit from it; many of such notes were what was called "accommodation notes;" all were acknowledgments of debt, and therefore no proofs of wealth; but bank notes were never issued except to produce a profit to the bank; therefore, to exempt them from duty, would be to exempt those which were best entitled to pay.

The only objection would be, any inconvenience which might take place to counterbalance the benefit to be derived from the tax. It had been supposed that a depreciation would take place in the value of the notes in consequence of this tax. In order to show that this was not probable, he supposed the tax would be laid.

Bank notes were issued and re-issued; but when an individual gave a note, after it was paid, there was an end of it. Bank notes might be issued twenty-times, or oftener; it was necessary, therefore, to tax them in a different way from other notes. He supposed the same provision might be adopted here as was adopted in England. They might be allowed to be issued for a certain number of years—say three. This would remedy every kind of inconvenience arising from reissuing. As to notes now in circulation, the way to prevent inconvenience would be to fix the time after which all notes should be renewed by stamped notes. The consequence would be, that all notes would, by degrees, be returned to the bank, and no difficulty would arise from doing so. Six or nine months might be allowed for this purpose. This was the way in which all the banks in England, except the Bank of England, were subject to the stamp duty; that bank, he believed, had paid a certain sum to be excused from the tax. Perhaps the same privilege might be allowed here.

Mr. NICHOLAS noticed what had fallen from the gentleman from Pennsylvania on the subject of depreciation, and showed by the regulations under which the tax would be paid, that it could not take place.

Mr. RUTLEDGE thought bank notes a proper object of taxation, and had not heard one good reason why they should be exempted from the proposed duty. The arguments of his colleague (Mr. SMITH,) that bank notes now in circulation would be affected, and their currency checked, he would answer, by observing that the duty could not operate upon notes now in circulation; it was not proposed to have them called in, but to have those stamped which shall be issued after a certain day. He did not think the weight and importance which generally attach to the observations of the gentleman from Pennsylvania (Mr. SITGREAVES) attach to those now offered by him. With respect to the circulation of bank notes being embarrassed by the necessity there would be for the people at large being acquainted with the date of the law, the objection would apply to private as well as bank notes. The people throughout the country must inform themselves, and the most ignorant will inform themselves of the date of the act; and whenever a bank note or a private note shall be offered to them, they will always inquire if it was issued subsequent or previous to a certain day. The gentleman from New York (Mr. BROOKS) was certainly incorrect in saying that "bank paper was not stamped in any country whatever." In Great Britain, Mr. R. said, the paper of all private banks is stamped; that of the Bank of England has been exempted from the stamp duty, by the bank having paid the Government a sum, in gross, by way of commutation. Although the moneyed interest has always been well and largely represented in England, yet bank notes are taxed there, and the circulation of them has not been embarrassed by this duty; on the contrary, the system of banking has been wonderfully extended throughout that kingdom. In every part of it bank notes are current; every town and village has its banks; they are as universal as their churches. Mr. R. asked, where would be the propriety of taxing notes issued by fifty individuals in their individual capacity, and exempting those issued by them when they associated, called themselves a Banking Company, and issued notes to three times the amount of their capital? The measure seemed to him unwise, and he was sure it would be unpopular. He could not conceive why people who had no other property than stock, which, in many instances, yielded an interest of fifteen per cent., should not contribute to the support of Government.

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Mr. SWANWICK.—The greatest objection which the banks in England seemed to have to the tax, was, that it might ascertain the quantity of notes they had in circulation. In order to prevent this, the Bank of England commuted with Government for a certain sum; but the notes of all the private banks were stamped. He thought it reasonable that this kind of notes should be stamped as well as others, though he would have the tax low; for he saw no reason why merchants should pay, and bankers be excused from the duty, since great emolument was derived from these notes, by the consent of the community, and the community, in return, had a right to expect assistance from the banks.

Mr. W. SMITH believed, if an original proposition had been brought forward to tax bank notes, it would have been thought a very serious thing, and they should have paused before they consented to the proposition. Gentlemen who advocated this proposition, allowed it would

require many provisions to carry it into effect. What those provisions were he could not pretend to say. He thought bank notes had been too much confounded with notes of individuals, and they were quite different things. Those of individuals were mostly larger, the greatest part of bank notes were for five dollars. Notes of individuals, if not stamped, could not be received in evidence; but he did not know what must be the penalty on bank notes being issued without stamp. Besides, he said, to lay a duty upon the notes issued by the Bank of the United States would be a violation of its charter, for, by that charter, it was said, the notes of that bank should be received at the custom-house in payment of duties. It had been said a commutation might be allowed, but that would be equally contrary to the charter; besides, if such a thing were to be done, he did not know who could do it; it would not be the proper business of the PRESIDENT, and that House would have difficulty in saying what would be a proper sum to be paid for the purpose. He again feared the introduction of this principle would destroy the bill.

Mr. COIT did not think it was quite so clear a thing as some gentlemen seemed to think it, that bank notes ought to be stamped. He did not believe the analogy between the bank and private notes was so strong as had been represented. If the facts were as represented, that every bank note was to be considered as producing a profit to the banker, there would be good ground for the tax; but he was of opinion this was not the case. For instance, if the bank gave their note for one hundred dollars, it was equal evidence with the note of an individual, that they had received the value of one hundred dollars. But if they went further, it would be found the analogy did not hold. The note of the individual was at a certain date, but that of the banker was on demand; and they were every day liable to be called upon for the money of which the note was the representative; so that they were obliged to keep the money, or money at least to a great amount, ready to take up their notes whenever presented. Banks could not, therefore, be considered as receiving a profit on all the notes they issued; but only upon the difference between the amount of notes issued, and the cash they are obliged to keep by them to answer their demands. The analogy, therefore, did not hold; and, if bank notes were taxed, it must be upon a different principle from that on which the notes of individuals are taxed.

Mr. POTTER was in favor of the amendment, and he trusted that gentlemen who were always ready to go into every species of expense, would not flinch when the object was to raise money. He had this morning voted for a bill laying additional tax on licenses, which he believed would be found in some degree oppressive, but he did it because he knew revenue was wanted. He hoped the gentleman from South Carolina would, on this occasion, concur in the proposed tax. He doubted not unexceptionable means might be devised for collecting it; if not, it might be given up.

Mr. HARPER was against the amendment, not because he was satisfied bank notes were not a proper object of taxation, but because he did not wish to embarrass the bill with a subject which they had not time to consider.

Mr. SWANWICK again spoke in favor of the tax.

Mr. OTIS was against the amendment; not because he thought such a tax would be improper, but from the difficulties which would attend the carrying it into effect. Besides, he said, if the notes were to revert to the bank every two or three years, it would cause a run upon them for cash, instead of renewed notes, which might be very inconvenient.

Mr. VENABLE did not think the run upon the bank which the gentleman had mentioned could take place, as the notes would have to be renewed three years from the time issued, and all their notes would not be issued on one day. Mr. V. again insisted that this tax should be general; and if they had not time to make it so, it ought to be put off till they had. Not to include bankers would be to lay a tax upon the people whose complaints of its hardships could not be heard. He deprecated this as unjust.

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Mr. HARPER could not conceive that the great body of merchants and farmers throughout the United States were people who could not make their complaints heard, if they had them to make. The proprietors of banks, Mr. H. said, already paid taxes in a variety of shapes; many of them were merchants, and would, of course, pay the tax imposed on the notes of individuals.

Mr. BROOKS was against going into a tax on bank notes at present, but denied that there would be any cause of complaint from the people on account of the taxes imposed by this bill. He wished to make a beginning with a stamp tax at present; it might not be completed these seven years. Gentlemen might as well go on and propose a tax on newspapers, which, whatever might be said against it, he believed might be laid without infringing the liberty of the press; but a thing of this kind would require a great deal of detail.

Mr. CLAIBORNE was in favor of including bank notes; not to do this, he said, would be to catch *small fish*, and let the *large ones* pass.

Mr. GALLATIN said that the provisions for laying this tax would be by no means difficult. Indeed, three-fourths of the bill was copied from the British statute, and that part respecting bank notes could be as easily copied as any other part. The observations respecting the charter of the Bank of the United States, were not deserving of a reply. There was only one of two things which could be done, either to tax bank notes, or to excuse all other notes from the tax.

Mr. SITGREAVES could not submit to hear that it was the intention of those who opposed this motion, to screen the moneyed interest of this country from paying a tax. He had no such views. He had no objection to tax the banks in proportion to the amount of their business; but he could not agree to its being done in this way. If gentlemen would estimate how much the stamp duty of a bank would produce to the United States, he would vote for a sum of this kind by way of commutation. Charges could rarely be made against the side of the House with whom he

generally acted, for not being willing to vote for revenue; a contrary charge was more frequently made. He trusted the amendment would not be agreed to; but that if the tax were laid, it would be by way of commutation.

The question was taken and carried, there being 55 votes in favor of it.

The committee rose and had leave to sit again.

The resolution respecting an adjournment was received from the Senate, and disagreed to. The disagreement being read, Mr. GILES moved the same resolution filled with Monday next; but Mr. WILLIAMS opposed it, and moved to adjourn.

## THURSDAY, June 29.

### *Stamp Duties.*

### BANK NOTES.

The House went into a Committee of the Whole on the bill for imposing stamp duties, when the clause of Mr. GALLATIN yesterday proposed to the committee, on the subject of bank notes, being under consideration,

Mr. OTIS supposed that at least two-thirds of the whole amount of paper issued by the banks, returned and were re-issued every year, and thus the banks must pay tax upon two-thirds of their capital in the first year after the law passed, and which, according to a rough calculation, relation being had to the different denominations of notes, amount to nearly one per cent. on their capital. The tax ought to be levied upon such new notes only as should be issued hereafter; all that were now in existence were protected by the charter, and any law relating to them would be retrospective; and as one-fifth of the whole number of notes would be renewed every year, a tax upon them would be found to bear as hard as upon other notes and bills, which seldom comprised more than the fifth part of the transactions of an individual. It ought also to be considered, that the paper issued by the bank generally became worn and dirty, and incapable of receiving a stamp, so that in less than two years the whole amount of paper must be re-issued, and the entire tax assessed in the same period. This plan would also be inconsistent with that of a commutation, which had been proposed.

Mr. DAYTON (the Speaker) did not think that this proposition precluded the provision of a commutation. He was in favor of taxing bank notes, but he wished also to hold out a commutation, and such a one as should induce all the banks to embrace it; for, if this were not the case, they would not be taxed equally, as the notes of banks did not bear a just proportion to the amount of their dividends. This clause would not, therefore, preclude the commutation, but render it proper, and a clause could be brought in excusing such banks from the duty as came into the proposed plan.

Mr. GALLATIN said, his ideas corresponded exactly with those of the gentleman who had just spoken. The scheme suggested by the gentleman from Massachusetts, of not taxing the notes at present in circulation, would excuse bank notes from all tax, as, according to his own account, only about one-fifth of the notes issued came in in the course of a year, so that it would be five years before a new tax could operate upon all their notes, and it was probable the bill might not pass for more than three or four. That gentleman supposed that bankers' notes ought not to be charged more than others; if this were the case, they might be reckoned to run for four or five years, while those of individuals were at six and twelve months. The note of an individual, for fifty dollars, was to pay ten cents; he calculated a bank note, therefore, for a like sum, which he supposed, upon an average, to run four years, thirty cents.

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With respect to the notes at present in circulation, Mr. G. said, they ought all to be called in before a certain time, and after that day no note should be negotiable which was not stamped.

The gentleman from Massachusetts was not correct when he said that this tax would amount to one per cent. upon the capital employed in banks. The calculation of the amount of the tax upon a bank which he had made, would amount to \$10,000 a year, whereas one per cent. upon the capital of the Bank of the United States would amount to \$200,000; but he said (as he had before stated) that the notes issued by a bank were not equal to its capital, or any thing like it. He could not, indeed, say what the amount of the notes of the Bank of the United States might be which were received for duty, from one end of the United States to the other; but he knew banks in general, in large cities, did not employ more than two-fifths of their capital in this way. He knew it to be a fact with respect to a bank of the largest property in the United States, except the Bank of the United States. He thought of proposing the commutation to be one per cent. upon the amount of the dividend paid by each bank, which he supposed would be deemed a reasonable sum.

Mr. OTIS explained.

Mr. SEWALL thought the observation of the gentleman from Connecticut yesterday, as to the nature of bank notes, had weight. He agreed with him that they were very different from the notes of individuals, as they were always obliged to keep cash in readiness to take up their notes, while individuals, knowing exactly the time when the money for theirs would be wanted, could make use of it in the mean time. Therefore, if they taxed bank notes, they ought not to tax them in the same proportion with those of individuals at a certain date. Notes of individuals, under twenty dollars, were to be exempt from duty, while every note issued by a bank was proposed to



be taxed.

Every banker's note of fifty dollars was to be charged with thirty cents, while those of individuals, which might run for two or three years, were charged only with ten cents. Every three or four years they would have to pay this sum. If a fair commutation were to be made, they should first fix the tax upon just principles.

Mr. NICHOLAS thought if there was no objection to the commutation, there could not reasonably be any made to the tax, because if the commutation were reasonable they would not choose to pay the tax; but, if they should choose to pay the tax, instead of the commutation, it would be evidence that the tax was too low.

Mr. W. SMITH did not see the force of the argument of the gentleman last up. As the commutation was to bear some proportion to the rates of duty, it became necessary to fix the rates upon a fair basis. If the rates were fixed too high, they ought to reduce them. He did not see the propriety of selecting moneyed corporations for the purpose of laying a high duty upon them. He moved to strike out the three cents for every five dollars, and leave it a blank.

Mr. DAYTON hoped this proposition would be agreed to, as by a vote upon the question in blank they would fix the principle whether or not bank notes were to be taxed, and the scale could be afterwards fixed. If there was the difference alleged between bank notes and the notes of individuals, it would be sufficiently considered in the commutation. He should not, indeed, be willing to agree to any scale without a commutation, for the reason he had before mentioned. For, said he, take the Bank of the United States and the Bank of North America, and the notes issued by them bear no sort of proportion to their respective capitals. If the tax were to be laid upon the notes issued, the Bank of the United States would pay a much larger sum than the other in duty.

Mr. GALLATIN observed that the gentleman from South Carolina had said they were about to select moneyed corporations as objects on which to lay a high duty. He had made a calculation to show that this was not the case, but that what was proposed was no more than just and reasonable, and that instead of the tax being one per cent. upon their capital, it was not more than one twentieth or one twenty-fifth part of one per cent.

He would state the facts, and beg gentlemen to correct him where he was mistaken. In the first place he would state the capital of all the banks of the United States at \$20,000,000; the whole amount of bank notes at less than \$8,000,000. He would divide these \$8,000,000, one-half into notes under fifty dollars, and one-half above that sum as follows:

\$4,000,000 in notes under fifty dollars, which would give about eighty thousand notes, (for though they would be of different sizes they paid in the same proportion,) at thirty cents,	\$24,000
\$2,000,000 of one hundred dollars and upwards, at fifty cents,	10,000
\$2,000,000 of three hundred dollars and upwards,	4,000
	----
	\$38,000
Allow for mistakes,	2,000
	----
Which includes all the notes in circulation in the United States,	\$40,000

As to the principle of taxation itself, that bank notes of fifty dollars should pay thirty cents when notes of individuals only pay ten cents, justice requires the difference, on the same principle that notes of sixty days had been charged with only two-fifths of the duty charged upon others.

Mr. G. stated the following account of a bank in Philadelphia, whose capital was \$2,000,000, and to which Government owed nothing; which, he said, would apply to every other bank in the same circumstances, with little variation:

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To the original fund,	\$2,000,000
To deposits, about	900,000
To bank notes,	600,000
	-----
Total debts,	\$3,500,000
	-----
By notes discounted, \$3,000,000 <sup>[20]</sup>	500,000
By cash in vault,	500,000
	-----
Total credits,	\$3,500,000
	-----

As banks were thus able to transact business to the amount of three millions of dollars, though their original fund was only two millions, he accounted for their sharing dividends of nine per cent. on their stock. It would be observed that the two millions capital were not touched for notes, and yet they were charged with selecting these bodies of men upon whom to lay a heavy tax.

Mr. G. concluded by saying he had no prejudice against banks. He knew they were liable to abuse, but, upon the whole, he believed them to be useful. He believed the scale he had formed



was correct, but should withdraw it for the present, in order to give an opportunity of trying the principle.

## FRIDAY, June 30.

### *Duties on Stamps.*

The proposition of Mr. GALLATIN for admitting of a composition from the banks in lieu of the tax, came next under consideration—the blank in which was moved to be filled with one per cent.; when

Mr. W. SMITH said, if the gentleman from Pennsylvania was right in his calculation yesterday, the whole amount of duties arising from the banks would be \$8,000 a year, and therefore they ought not to go farther in fixing the composition, whereas one per cent., according to the same statement, will produce more than double that sum; for, if the whole capital of the banks in the United States be twenty millions, and their average dividend ten per cent., that will produce two millions, which at one per cent. will give \$20,000. He therefore moved, in order to bring the matter nearer to a fair equivalent, to strike out one per cent. and insert one-half per cent.

Mr. NICHOLAS said what the duty would produce was uncertain; they could with more correctness say, that one per cent. was a reasonable composition on the dividends, than what might be produced by the duty. He knew of no tax laid upon property that could be made for less than five per cent. to clear the expense of making it.

Mr. W. SMITH thought they should first fix the rates to be paid on bank notes before they determined upon the composition.

Mr. GALLATIN said, when the rates were before under consideration, the gentleman from South Carolina objected to it, because, if fixed too high, he said it would influence the composition. He therefore moved to have it struck out; but now, when a composition was under consideration, he turns round and says it would be better first to fix the rates. He thought one per cent. a reasonable composition, and that it would be best first to fix that.

Mr. SMITH denied that he wanted first to fix the composition; it was his wish to strike out the rates, to reduce them, that he moved to leave the sum blank.

The question was put and carried, there being 54 votes in favor of it.

Mr. GALLATIN then renewed his motion for fixing the scale of duty to be paid on bank notes. It was, on notes not exceeding fifty dollars, three cents for every five dollars; those not exceeding one hundred dollars, fifty cents; those above one hundred dollars, and not exceeding five hundred dollars, one dollar; for all above five hundred dollars, two dollars.

Mr. DAYTON said there were many notes under five dollars, for which there was no provision.

Mr. GALLATIN thought "the rate of" would have included the small ones; and, to dissipate every doubt on the subject, he moved to replace "three cents for every five dollars," with "three-fifths of a cent for every dollar."

Carried, 39 to 24.<sup>[21]</sup>

## MONDAY, July 3.

The bill for laying a stamp duty was read a third time, and the blanks filled up, viz: that for fixing the time of the act taking effect, with the 31st day of December next; the fine and imprisonment for counterfeiting stamps, &c., with \$1,000 and seven years' imprisonment; and the time for which the duration of the act was limited, with five years.

The yeas and nays being taken on the passage of the bill, were—yeas 47, nays 41, as follows:

YEAS.—John Allen, James A. Bayard, David Brooks, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, Geo. Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, James Gillespie, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, (of Charleston,) George Thatcher, Richard Thomas, Mark Thomson, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS.—George Baer, jr., Abraham Baldwin, David Bard, Lemuel Benton, Thos. Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Christopher G. Champlin, Thomas Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, Jonathan N. Havens, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Josiah Parker, Thompson J. Skinner, William Smith, (of Pinckney District,) Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and

**TUESDAY, July 4.**

***Duty on Salt.***

Mr. ALLEN called up the resolution he yesterday laid upon the table, for laying an additional duty on salt.

Mr. GALLATIN moved to postpone the consideration of this resolution until the second Monday in November.

Some debate took place on this question; and, when it came to be taken, the House was equally divided, there being 43 votes for the postponement, and 43 against it. The SPEAKER decided against the postponement, and the resolution was referred to a Committee of the Whole immediately.

The House accordingly resolved itself into a Committee of the Whole on this resolution; when

Mr. ALLEN moved the blank cents per bushel be filled with twelve.

Mr. SWANWICK wished the sum to be seven.

Mr. ALLEN consented to make it eight.

Mr. SITGREAVES hoped it would be twelve.

The question was first taken upon twelve, and negatived, there being only 30 votes for it. It was next taken upon eight, and carried, 47 to 42, and then upon the resolution as amended, and carried by the same numbers.

The committee rose, and the House took up the resolution.

After a few words from Mr. LYON against the tax, and from Mr. WILLIAMS in favor of it,

Mr. W. SMITH went at considerable length into a defence of the measure, in the course of which, he said, they had already agreed upon appropriations to the amount of \$700,000 or \$800,000, and were not certain of any revenue to meet the expenditure. The license act, he believed, might produce from \$50,000 to \$60,000, and the stamp act from \$100,000 to \$150,000, if they should be passed; but he considered this as doubtful. But if these laws were passed, this tax on salt was necessary to keep up the equilibrium of taxation;<sup>[22]</sup> for the stamp act would almost exclusively fall upon commerce and large cities; this would principally be felt by the agricultural part of the Union; and, if it were not agreed to, they must have a land tax.

Mr. SHEPARD said, no tax would operate so equally as a salt tax, as every citizen must make use of it in a smaller or larger quantity.

Mr. GALLATIN opposed this tax on the same ground which he heretofore opposed it, as oppressive to certain parts of the Union, and no way affecting others, and therefore wholly unequal, and particularly as it bore heavy on the poorer classes of society. He was against it also, because it was not proposed that the amount of this tax should go towards a reduction of the public debt, but merely to encourage expense in the Government; for he believed if they filled the Treasury with money, means would be found to expend it. Indeed, if the Treasury had not been at present in rather a low state, he believed they should have gone into most of the expensive measures proposed to them this session. He allowed the tax would be productive, as a tax upon bread, air, or any necessary of life, must be productive. If this tax, however, were to be agreed to, he should wish to make an amendment to the present proposition. At present the drawback allowed to the New England States, on account of salt used in the fisheries, amounted to about \$90,000 a year, though by the statements it appeared there should only have been allowed \$50,000. To rectify this, he proposed the following proviso to be added to the resolution, viz:

*Provided*, That the allowance now given upon vessels employed in the fisheries, shall not be increased.

This amendment was opposed by MESSRS. HARPER, SEWALL, DANA, and KITTERA, on the ground of its being an unfair way of introducing the proposition, as no one expected it; they were not prepared to meet it; the correctness of the statement was doubted; and, if it were correct, it was said, the proper way of doing the business would not be to pass the present law without a drawback, but to reduce the former drawback and make it less on this occasion.

The motion was supported by the mover, and Messrs. VENABLE and LIVINGSTON; but, after some discussion, Mr. GALLATIN withdrew it, in order to give gentlemen time to make themselves acquainted with the fact he had stated; but he expressed his intention of renewing the proposition when the bill came in.

The question then returned upon the original resolution; when

Mr. HARPER went at length into a defence of the measure, (in the course of which he charged Mr. GALLATIN with being mistaken \$12,000 as to the amount of the drawback allowed,) and insisted that it was a fair and proper tax, and that so small an advance upon the present duty could not operate oppressively upon any part of the community.

Mr. NICHOLAS followed in opposition. He dwelt considerably on the unjust and unequal manner in which this tax would operate. He said he did not view this question as deciding merely whether an additional tax of eight cents should be laid upon salt; but whether that necessary of life should

be called upon for every thing Government should want. He was in favor of a direct tax, which should fall equally, though it might, in the origin, be attended with some considerable expense; but, if they went on raising partial sums in this way by indirect means, the expense of instituting a direct tax would always be an obstacle, and indirect taxes would always be had recourse to. He did not believe it to be absolutely necessary to provide a revenue this session, as he believed money might as well be borrowed without as with additional revenue, and at the next session, the subject could be fully gone into.

Mr. LYON spoke of the discontent which had always been shown in the part of the country from whence he came, which, he said, would be greatly increased by this addition. It was not only a duty of eight cents, every cent would be made four before the salt reached them. There was no kind of tax which his constituents would not sooner bear. It had been said that a land tax would cost twenty-five per cent. to collect it; but what was twenty-five compared with three hundred per cent.? Nor did he believe this tax would prevent a land tax. He believed they should go on taxing the people until they would be greatly dissatisfied. He would much rather a tax of eight cents was laid upon tea, which would produce an equal sum.

The question was taken by yeas and nays, and decided in the affirmative—47 to 41.

### WEDNESDAY, July 5.

#### *Duty on Salt.*

The House went into Committee of the Whole on the bill for laying an additional duty on salt; when

Mr. GALLATIN moved to strike out all that related to the allowing of a drawback to vessels employed in the fishing trade, on the ground that he yesterday stated, viz: that the allowance at present made was too large by \$40,000 a year, taking the year 1794 for his data; but it appeared that in the year 1795 there was a deficiency in that trade, owing principally, it was supposed, to the great demand for seamen in the merchant service. He, therefore, would take the calculation of the gentleman from South Carolina, (Mr. HARPER,) made yesterday, and, instead of calling the amount of drawback allowed \$90,000, he would state it to be \$78,000; and even then, he said, the drawback at present allowed would exceed by two thousand dollars the drawback to which they would be entitled, if the present duty took place.

He spoke generally against the tax as oppressive to the back country; but if the gentleman from Massachusetts, and others, were determined to increase the tax, he should wish their part of the country to pay their share of it.

This motion was supported by MESSRS. VENABLE, NICHOLAS, CLAY, McDOWELL, and MACON.

It was opposed by Messrs. SEWALL, OTIS, HARPER, COIT, BROOKS, KITTERA, J. WILLIAMS, and DAYTON.

The calculation of the quantity of salt estimated to be necessary to be used for a quintal of fish, (one bushel,) was said to be stated too low; that the sum allowed was not only meant as a drawback of the duty, but also as a bounty on the fishing trade—as being a nursery for seamen, and serving as a kind of naval militia for the United States.

If it should appear, however, that the present allowance was too great, (which, by some gentlemen in favor of this motion, which was in blank, seemed to be acknowledged,) a less allowance might be made in this bill; but they could not consent to the bill passing without a drawback.

The question for striking out the clause was taken, and negatived—49 to 41.

Mr. COIT moved to fill the blank with 50 per cent., instead of 66-2/3, which was the drawback allowed by the present law.

Mr. HARTLEY thought this sum too high.

Mr. WILLIAMS moved 33-1/3 per cent. which was carried without a division.

Mr. NICHOLAS moved a limitation clause, to continue the act in force for two years, and from thence to the end of the next session of Congress.

This motion was carried—42 to 39.

The committee rose, and the House agreed to the amendments. The yeas and nays were called upon the limitation clause, and were taken, and stood—yeas 47, nays 43.

The bill was ordered to be engrossed for a third reading this day; and before the House rose, it received it, and passed. The yeas and nays on its passage stood 45 to 40, as follows:

YEAS.—John Allen, James A. Bayard, David Brooks, Stephen Bullock, John Chapman, Christopher G. Champlin, Joshua Coit, William Craik, Samuel W. Dana, James Davenport, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Elisha R. Potter, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, (of Charleston,) John Swanwick, George Thatcher, Mark Thompson, John E. Van Allen, 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, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Wm. B. Grove, John A. Hanna, Jonathan N. Havens, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Daniel Morgan, Anthony New, John Nicholas, Thompson J. Skinner, William Smith, (of Pinckney District,) Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

### SATURDAY, July 8.

#### *Laws in the German Language.*

Mr. HOLMES said that he thought it necessary, in order to enforce a general compliance with the laws of the United States, that they should be printed in the German language, as well as in the English, since there were very many inhabitants in this country who could read no other. He therefore proposed a resolution to the following effect:

*"Resolved by the Senate and House of Representatives of the United States, That a number of copies of the laws of this session, not exceeding eight thousand copies, shall be printed in the German language, and distributed by the Secretary of State amongst the Executives of the several States, for the information of the German inhabitants of each State respectively."*

Mr. LYON thought it would be proper to pass a resolution of this kind. He did not know what number might be necessary. He also thought that some measures should be taken for a general publication of their laws in the English language; at present, it was merely by chance if the people in his district came to a knowledge of them. He thought all laws of general import should be inserted in every newspaper throughout the Union.

Mr. COIT said if they were to promulge their laws in the German language, it would be necessary that they should all become critically acquainted with it, for if they were to authorize any translation, great mischiefs might arise from its not being correct.

Mr. GALLATIN said that the weight of the objection urged by the gentleman last up, had always been thought sufficient in the Legislature of Pennsylvania, in which State there was a greater proportion of Germans than in any other. There was also another objection to the measure. If it were to be passed, it must be accompanied with an appropriation law, which the advanced state of the session would not admit.

The resolution was put and negatived.

### MONDAY, July 10.

On motion of Mr. DENT, a committee was appointed to wait upon the PRESIDENT OF THE UNITED STATES, in conjunction with a like committee from the Senate, to inform him the two Houses were about to adjourn. The committee waited upon the PRESIDENT accordingly, and reported his acquiescence, and his good wishes for the safe arrival of the members at their several homes.

On motion of Mr. SITGREAVES, the resolution entered into some time ago, calling upon the PRESIDENT for an account of the quantity of arms in the possession of the United States, and at what place they were lodged, was suspended.

Mr. S. said, he wished to make a report upon a subject which would require the galleries to be cleared. He, therefore, moved that they be cleared, and the doors were closed for the remainder of the sitting, at the conclusion of which the House adjourned till the second Monday in November next.<sup>[23]</sup>

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## FIFTH CONGRESS.—SECOND SESSION.

[Pg 166]

BEGUN AT THE CITY OF PHILADELPHIA, NOVEMBER 13, 1797.

PROCEEDINGS IN THE SENATE.

MONDAY, November 13, 1797.

The second session of the fifth Congress of the United States commenced this day, at the city of Philadelphia, conformably to law; and the Senate assembled accordingly in their Chamber.

PRESENT:

SAMUEL LIVERMORE, from New Hampshire.

THEODORE FOSTER, from Rhode Island.

URIAH TRACY, from Connecticut.

ELIJAH PAINE, from Vermont.  
WILLIAM BINGHAM, from Pennsylvania.  
HUMPHREY MARSHALL, from Kentucky.  
ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina.  
JACOB READ, from South Carolina.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

### **TUESDAY, November 14.**

JOHN LAURANCE, from the State of New York, and HENRY LATIMER, from the State of Delaware, severally attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

### **WEDNESDAY, November 15.**

BENJAMIN GOODHUE, from the State of Massachusetts, attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

### **THURSDAY, November 16.**

The Senate assembled, and the number of members present not being sufficient to constitute a quorum, the Senate adjourned.

### **FRIDAY, November 17.**

JOHN LANGDON, from the State of New Hampshire, attended.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

### **SATURDAY, November 18.**

No quorum being present, the Senate adjourned.

### **MONDAY, November 20.**

JAMES GUNN, from the State of Georgia, attended.

No quorum being present, adjourned.

### **TUESDAY, November 21.**

RAY GREENE, appointed a Senator by the State of Rhode Island, in the place of WILLIAM BRADFORD, resigned, produced his credentials.

RICHARD STOCKTON, from the State of New Jersey, attended.

No quorum being present, the Senate adjourned.

### **WEDNESDAY, November 22.**

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides; and JACOB READ was duly elected.

JOSEPH ANDERSON, appointed a Senator by the State of Tennessee, for the remainder of the term which the late Senator WILLIAM BLOUNT had drawn, and was entitled to have served, produced his credentials; which were read.

NATHANIEL CHIPMAN, appointed a Senator by the State of Vermont, in the place of ISAAC TICHENOR, elected Governor, produced his credentials; which were read.

The credentials of RAY GREENE were read.

ANDREW JACKSON, appointed a Senator by the State of Tennessee, produced his credentials; which were read.

The oath required by law was administered by the PRESIDENT, to MESSRS. ANDERSON, CHIPMAN, GREENE, and JACKSON, they having severally taken their seats in the Senate.

A message from the House of Representatives informed the Senate, that a quorum of the House is assembled, and ready to proceed to business. [Pg 167]

*Ordered*, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and are ready to proceed to business; and that, in the absence of the VICE-PRESIDENT, they have elected JACOB READ, President of the Senate *pro tempore*.

*Resolved*, That each Senator be supplied, during the present session, with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

A message from the House of Representatives informed the Senate, that the House have appointed a joint committee on their part, together with such committee as the Senate may 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 that he may be pleased to make to them.

*Resolved*, That the Senate do concur in the appointment of a joint committee, and that Messrs. BINGHAM and TRACY be the committee on the part of the Senate.

*Resolved*, That two Chaplains be appointed to Congress for the present session, one by each House, who shall interchange weekly; and that the Right Rev. Bishop WHITE be Chaplain on the part of the Senate.

Mr. BINGHAM reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses is assembled; and that 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.

### **THURSDAY, November 23.**

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 please to make them.

The Senate then repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES, this day addressed to both Houses of Congress, was read:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I was for some time apprehensive that it would be necessary, on account of the contagious sickness which afflicted the city of Philadelphia, to convene the National Legislature at some other place. This measure it was desirable to avoid, because it would occasion much public inconvenience, and a considerable public expense, and add to the calamities of the inhabitants of this city, whose sufferings must have excited the sympathy of all their fellow-citizens. Therefore, after taking measures to ascertain the state and decline of the sickness, I postponed my determination, having hopes, now happily realized, that, without hazard to the lives or health of the members, Congress might assemble at this place, where it was next by law to meet. I submit, however, to your consideration, whether a power to postpone the meeting of Congress, without passing the time fixed by the constitution, upon such occasions, would not be a useful amendment to the law of one thousand seven hundred and ninety-four.

Although I cannot yet congratulate you on the re-establishment of peace in Europe, and the restoration of security to the persons and properties of our citizens from injustice and violence at sea, we have nevertheless abundant cause of gratitude to the Source of Benevolence and Influence, for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvements; and, above all, for a rational spirit of civil and religious liberty, and a calm, but steady determination to support our sovereignty, as well as our moral and religious principles, against all open and secret attacks.

Our Envoys Extraordinary to the French Republic embarked, one in July, the other early in August, to join their colleague in Holland.<sup>[24]</sup> I have received intelligence of the arrival of both of them in Holland, from whence they all proceeded on their journey to Paris, within a few days of the nineteenth of September. Whatever may be the result of this mission, I trust that nothing will have been omitted on my part, to conduct the negotiation to a successful conclusion, on such equitable terms as may be compatible with the safety, honor, and interests of the United States. Nothing, in the mean time, will contribute so much to the preservation of peace, and the attainment of justice, as a manifestation of that energy and unanimity of which, on many former occasions, the people of the United States have given such memorable proofs, and the exertion of those resources for national defence, which a beneficent Providence has kindly placed within their power.

It may be confidently asserted, that nothing has occurred since the adjournment of Congress, which renders inexpedient those precautionary measures recommended by me to the consideration of the two Houses, at the opening of your late extraordinary session. If that system was then prudent, it is more so now, as increasing depredations strengthen the reasons for its adoption.

Indeed, whatever may be the issue of the negotiation with France, and whether



the war in Europe is or is not to continue, I hold it most certain that perfect tranquillity and order will not soon be obtained. The state of society has so long been disturbed; the sense of moral and religious obligations so much weakened; public faith and national honor have been so impaired; respect to treaties has been so diminished, and the law of nations has lost so much of its force; while pride, ambition, avarice, and violence, have been so long unrestrained, there remains no reasonable ground on which to raise an expectation, that a commerce, without protection or defence, will not be plundered.

The commerce of the United States is essential, if not to their existence, at least to their comfort, their growth, prosperity, and happiness. The genius, character, and habits of the people are highly commercial; their cities have been founded, and exist, upon commerce; our agriculture, fisheries, arts, and manufactures, are connected with and depend upon it; in short, commerce has made this country what it is, and it cannot be destroyed or neglected without involving the people in poverty and distress; great numbers are directly and solely supported by navigation—the faith of society is pledged for the preservation of the rights of commercial, and seafaring, no less than of the other citizens. Under this view of our affairs, I should hold myself guilty of a neglect of duty, if I forbore to recommend that we should make every exertion to protect our commerce, and to place our country in a suitable posture of defence, as the only sure means of preserving both.

I have entertained an expectation, that it would have been in my power, at the opening of this session, to have communicated to you the agreeable information of the due execution of our treaty with His Catholic Majesty, respecting the withdrawing of his troops from our territory, and the demarkation of the line of limits; but by the latest authentic intelligence, Spanish garrisons were still continued within the limits of our country, and the running of the boundary line had not been commenced. These circumstances are the more to be regretted, as they cannot fail to affect the Indians in a manner injurious to the United States; still, however, indulging the hope that the answers which have been given, will remove the objections offered by the Spanish officers to the immediate execution of the treaty, I have judged it proper that we should continue in readiness to receive the posts, and to run the line of limits. Further information on this subject will be communicated in the course of the session.

In connection with the unpleasant state of things on our western frontier, it is proper for me to mention the attempts of foreign agents to alienate the affections of the Indian nations, and to excite them to actual hostilities against the United States; great activity has been exerted by these persons, who have insinuated themselves among the Indian tribes, residing within the territory of the United States, to influence them, to transfer their affections and force to a foreign nation, to form them into a confederacy, and prepare them for war, against the United States.

Although measures have been taken to counteract these infractions of our rights, to prevent Indian hostilities, and to preserve their attachment to the United States, it is my duty to observe, that, to give a better effect to these measures, and to obviate the consequences of a repetition of such practices, a law, providing adequate punishment for such offences, may be necessary.

The Commissioners appointed under the fifth article of the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, to ascertain the river, which was truly intended, under the name of the St. Croix, mentioned in the Treaty of Peace, met at Passamaquoddy Bay in October, 1796, and viewed the mouths of the rivers in question, and the adjacent shores and islands; and being of opinion, that actual surveys of both rivers to their sources, were necessary, gave the agents of the two nations instructions for that purpose, and adjourned to meet at Boston in August; they met; but the surveys, requiring more time than had been supposed, and not being then completed, the Commissioners again adjourned to meet at Providence, in the State of Rhode Island, in June next, when we may expect a final examination and decision.

The Commissioners appointed in pursuance of the sixth article of the treaty, met at Philadelphia in May last, to examine the claims of British subjects, for debts contracted before the peace, and still remaining due to them, from citizens or inhabitants of the United States. Various causes have hitherto prevented any determinations; but the business is now resumed, and doubtless will be prosecuted without interruption.

Several decisions on the claims of the citizens of the United States, for losses, and damages, sustained by reason of irregular and illegal captures, or condemnations, of their vessels or other property, have been made by the Commissioners in London, conformably to the seventh article of the treaty; the sums awarded by the Commissioners have been paid by the British Government; a considerable number of other claims, where costs and damages, and not captured property, were the only objects in question, have been decided by arbitration, and the sums awarded to the citizens of the United States have also been paid.

The Commissioners appointed agreeably to the 21st article of our Treaty with Spain, met at Philadelphia in the summer past, to examine and decide on the claims of our citizens for losses they have sustained in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty, during the late war between Spain and France; their sittings have been interrupted, but are now resumed.

The United States being obligated to make compensation for the losses and damages sustained by British subjects, upon the award of the Commissioners acting under the sixth article of the Treaty with Great Britain, and for the losses and damages sustained by British subjects, by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the United States, and brought into their ports, or taken by vessels originally armed in ports of the United States, upon the awards of the Commissioners acting under the seventh article of the same treaty, it is necessary that provision be made for fulfilling these obligations.

The numerous captures of American vessels by cruisers of the French Republic, and of some by those of Spain, have occasioned considerable expenses, in making and supporting the claims of our citizens before their tribunals. The sums required for this purpose have, in divers instances, been disbursed by the Consuls of the United States; by means of the same captures, great numbers of our seamen have been thrown ashore in foreign countries, destitute of all means of subsistence, and the sick, in particular, have been exposed to grievous suffering.

The Consuls have, in these cases also, advanced moneys for their relief; for these advances they reasonably expect reimbursements from the United States. The Consular act relative to seamen requires revision and amendment; the provisions for their support in foreign countries, and for their return, are found to be inadequate, and ineffectual. Another provision seems necessary to be added to the Consular act; some foreign vessels have been discovered sailing under the flag of the United States, and with forged papers. It seldom happens that the Consuls can detect this deception, because they have no authority to demand an inspection of the registers and sea letters.

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*Gentlemen of the House of Representatives:*

It is my duty to recommend to your serious consideration those objects which, by the constitution, are placed particularly within your sphere—the national debt and taxes.

Since the decay of the feudal system, by which the public defence was provided for, chiefly at the expense of individuals, a system of loans has been introduced. And as no nation can raise, within the year, by taxes, sufficient sums for its defence, and military operations in time of war, the sums loaned and debts contracted have necessarily become the subjects of what have been called funding systems. The consequences arising from the continued accumulation of public debts in other countries, ought to admonish us to be careful to prevent their growth in our own. The national defence must be provided for as well as the support of Government; but both should be accomplished, as much as possible, by immediate taxes, and as little as possible by loans. The estimates for the services for the ensuing year will, by my direction, be laid before you.

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

We are met together at a most interesting period; the situations of the principal powers of Europe are singular and portentous: connected with some by treaties and with all by commerce, no important event there can be indifferent to us; such circumstances call with peculiar importunity, not less for a disposition to unite in all those measures on which the honor, safety, and prosperity of our country depend, than for all the exertions of wisdom and firmness.

In all such measures you may rely on my zealous and hearty concurrence.

JOHN ADAMS.

UNITED STATES, *November 23*, 1797.

*Ordered*, That Messrs. STOCKTON, LAURANCE, and LIVERMORE, 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; and that the Speech be printed for the use of the Senate.

### **FRIDAY, November 24.**

A message from the House of Representatives informed the Senate, that the House have agreed to so much of the resolution of the Senate, of the 22d instant, relative to the appointment of Chaplains, as is contained in the words following, to wit:

"*Resolved*, That two Chaplains be appointed to Congress for the present session, one by each House, who shall interchange weekly."

"The House have proceeded, by ballot, to the appointment of a Chaplain on their part; and, upon



examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. ASHBEL GREEN."

### **SATURDAY, November 25.**

Mr. STOCKTON, from the committee, 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.

On motion, that a number of copies be printed, under an injunction that no more should be struck off than may be necessary for the use of the Senate, it passed in the negative.

*Ordered*, That the Secretary furnish such Senators as request it, with copies of this report.

### **MONDAY, November 27.**

HENRY TAZEWELL, from the State of Virginia, attended.

The Senate resumed the consideration of the report of the committee, of the draft of an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES, to both Houses of Congress, at the opening of the session; which, being read in paragraphs, and amended, was adopted, as follows:

*To the President of the United States:*

SIR: The communications you thought proper to make in your Speech to both Houses of Congress on the opening of their present session, afford additional proofs of the attention, integrity, and firmness, which have always marked your official character.

We cannot but approve of the measures you had taken to ascertain the state and decline of the contagious sickness which has so lately afflicted the city of Philadelphia, and the pleasing circumstance that Congress is now assembled at that place, without hazard to the health of its members, evinces the propriety of your having postponed a determination to convene the National Legislature at another place. We shall take into consideration the law of 1794, on this subject, and will readily concur in any amendment which may be deemed expedient.

It would have given us much pleasure to have received your congratulations on the re-establishment of peace in Europe, and the restoration of security to the persons and property of our citizens from injustice and violence at sea. But, though these events, so desirable to our country and the world, have not taken place, yet we have abundant cause of gratitude to the Great Disposer of human events for interior tranquillity and personal security, for propitious seasons, prosperous agriculture, productive fisheries, and general improvement; and, above all, for a rational spirit of civil and religious liberty, and a calm, but steady determination to support our sovereignty against all open and secret attacks.

We learn, with satisfaction, that our Envoys Extraordinary to the French Republic had safely arrived in Europe, and were proceeding to the scene of negotiation; and, whatever may be the result of the mission, we are perfectly satisfied that nothing on your part has been omitted, which could, in any way, conduce to a successful conclusion of the negotiation, upon terms compatible with the safety, honor, and interest, of the United States; and we are fully convinced that, in the mean time, a manifestation of that unanimity and energy of which the people of the United States have given such memorable proofs, and a proper exertion of those resources of national defence, which we possess, will essentially contribute to the preservation of peace and the attainment of justice.

We think, sir, with you, that the commerce of the United States is essential to the growth, comfort, and prosperity of our country; and that the faith of society is pledged for the preservation of the rights of commercial and seafaring, no less than of other citizens. And even if our negotiation with France should terminate favorably, and the war in Europe cease, yet the state of society, which unhappily prevails in so great a portion of the world, and the experience of past times, under better circumstances, unite in warning us that a commerce so extensive, and which holds out so many temptations to lawless plunderers, can never be safe without protection; and we hold ourselves obliged, by every tie of duty which binds us to our constituents, to promote and concur in such measures of marine defence, as may convince our merchants and seamen that their rights are not sacrificed, nor their injuries forgotten.

We regret, that, notwithstanding the clear and explicit terms of the treaty between the United States and His Catholic Majesty, the Spanish garrisons are not yet withdrawn from our territory, nor the running of the boundary line commenced. The United States have been faithful in the performance of their obligations to Spain, and had reason to expect a compliance equally prompt on the part of that power. We still, however, indulge the hope that the convincing answers, which have been given to the objections stated by the Spanish officers, to the immediate execution of the treaty, will have their proper effect; and that this treaty, so mutually beneficial to the contracting parties, will be finally observed with good

faith. We therefore entirely approve of your determination to continue in readiness to receive the posts, and to run the line of partition between our territory and that of the King of Spain.

Attempts to alienate the affections of the Indians; to form them into a confederacy, and to excite them to actual hostility against the United States, whether made by foreign agents, or by others, are so injurious to our citizens at large, and so inhuman with respect to our citizens inhabiting the adjacent territory, as to deserve the most exemplary punishment; and we will cheerfully afford our aid in framing a law, which may prescribe a punishment adequate to the commission of crimes so heinous.

The several objects you have pointed out to the attention of the Legislature, whether they regard our internal or external relations, shall receive from us that consideration which they merit; and we will readily concur in all such measures as may be necessary, either to enable us to fulfil our engagements at home, or to cause ourselves to be respected abroad. And, at this portentous period, when the powers of Europe, with whom we are connected by treaty or commerce, are in so critical a situation, and when the conduct of some of those powers towards the United States is so hostile and menacing, the several branches of the Government are, in our opinion, called upon, with peculiar importunity, to unite, and, by union, not only to devise and carry those measures on which the safety and prosperity of our country depend, but also to undeceive those nations who, regarding us as a weak and divided people, have pursued systems of aggression inconsistent with a state of peace between independent nations. And, sir we beg leave to assure you, that we derive a singular consolation from the reflection that, at such a time, the Executive part of our Government has been committed to your hands, for, in your integrity, talents, and firmness, we place the most entire confidence.

JACOB READ,  
*President of the Senate pro tempore.*

*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.

On motion, *Ordered*, That Messrs. TRACY, BINGHAM, and GREENE, be a committee, to inquire what business remained unfinished at the close of the last session of Congress, which, in their opinion, is proper for the Senate to take into consideration the present session, and, also, what laws will expire before the next session of Congress, and report thereon to the Senate.

## **TUESDAY, November 28.**

Mr. STOCKTON 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 this day at 12 o'clock, at his own house.

The Senate accordingly waited on the PRESIDENT OF THE UNITED STATES, and the PRESIDENT *pro tempore*, in their name, presented the Address agreed to yesterday.

To which the PRESIDENT made the following Reply:

*Gentlemen of the Senate:*

I thank you for this Address.

When, after the most laborious investigation, and serious reflection, without partial considerations, or personal motives, measures have been adopted or recommended, I can receive no higher testimony of their rectitude, than the approbation of an assembly, so independent, patriotic, and enlightened, as the Senate of the United States.

Nothing has afforded me more entire satisfaction, than the coincidence of your judgment with mine, in the opinion of the essential importance of our commerce, and the absolute necessity of a maritime defence. What is it, that has drawn to Europe the superfluous riches of the three other quarters of the globe, but a marine? What is it that has drained the wealth of Europe itself into the coffers of two or three of its principal commercial powers, but a marine?

The world has furnished no example of a flourishing commerce, without a maritime protection; and a moderate knowledge of man and his history will convince any one, that no such prodigy ever can arise. A mercantile marine and a military marine must grow up together; one cannot long exist without the other.

JOHN ADAMS.

UNITED STATES, *November 28*, 1797.

The Senate returned to their own Chamber, and adjourned.

## **WEDNESDAY, November 29.**

The PRESIDENT laid before the Senate the memorial and address of the people called Quakers, from [Pg 171]

their yearly meeting, held in Philadelphia, in the year 1797, requesting the attention of Congress to the oppressed state of the African race, and the general prevalence of vice and immorality; and the same was read and ordered to lie on the table.

**THURSDAY, November 30.**

*Ordered*, That the memorial and address of the people called Quakers, presented yesterday, be withdrawn.

**FRIDAY, December 1.**

JAMES HILLHOUSE, from the State of Connecticut, attended.

**MONDAY, December 11.**

THEODORE SEDGWICK, from the State of Massachusetts, attended.

**WEDNESDAY, December 13.**

THOMAS JEFFERSON, Vice President of the United States and President of the Senate, attended.

**FRIDAY, December 22.**

JOHN E. HOWARD, from the State of Maryland, attended.

**THURSDAY, December 28.**

JOHN BROWN, from the State of Kentucky, attended.

**FRIDAY, December 29.**

STEPHENS THOMPSON MASON, from the State of Virginia, attended.

**MONDAY, January 8, 1798.**

JAMES ROSS, from the State of Pennsylvania, attended.

**THURSDAY, January 11.**

JAMES LLOYD, appointed a Senator by the State of Maryland, in the place of John Henry, elected Governor of said State, produced his credentials; and, the oath required by law being administered, he took his seat in the Senate.

**WEDNESDAY, January 17.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The situation of affairs between the United States and the Cherokee Indians having evinced the expediency of a treaty with that nation, for the promotion of justice to them, as well as of the interests and convenience of our citizens, I have nominated, and, by and with the advice and consent of the Senate, appointed Commissioners to hold conferences, and conclude a treaty, as early as the season of the year and the convenience of the parties will admit.

As we know very well, by experience, such negotiations cannot be carried on without considerable expenses, I recommend to your consideration the propriety of making an appropriation, at this time, for defraying such as may be necessary for holding and concluding a treaty.

That you may form your judgments with greater facility, I shall direct the proper officer to lay before you an estimate of such articles and expenses as may be thought indispensable.

JOHN ADAMS.

UNITED STATES, *January 17, 1798.*

**MONDAY, January 22.**

JOSIAH TATTNALL, from the State of Georgia, attended.

**FRIDAY, February 2.**

JOHN SLOSS HOBART, appointed a Senator by the State of New York, in the place of Philip Schuyler,

resigned, produced his credentials, and, the oath required by law being administered, he took his seat in the Senate.

## **MONDAY, February 5.**

### ***French Outrage.***

The following Message was received from the PRESIDENT OF THE UNITED STATES; which was read:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I have received a letter from his Excellency Charles Pinckney, Esq., Governor of the State of South Carolina, dated the 22d October, 1797, enclosing a number of depositions and witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer belonging to Cape Francois, or Monte Christo, called the Vertitude or Fortitude, and commanded by a person of the name of Jordan or Jourdain, and particularly upon an English merchant ship named the Oracabissa, which he first plundered and then burned, with the rest of her cargo, of great value, within the territory of the United States, in the harbor of Charleston, on the 17th of October last. Copies of which letter and depositions, and also of several other depositions relative to the same subject, received from the Collector of Charleston, are herewith communicated.

Whenever the channel of diplomatical communication between the United States and France shall be opened, I shall demand satisfaction for the insult and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States and such foreigners as have a right to enjoy their peace, and the protection of their laws, within their limits, in that as well as some other harbors which are equally exposed.

JOHN ADAMS.

UNITED STATES, *February 5, 1798.*

*Ordered,* That the Message and papers referred to lie for consideration.

## **MONDAY, February 19.**

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JOSHUA CLAYTON, appointed a Senator by the Legislature of the State of Delaware, in the place of John Vining, resigned, produced his credentials, which were read, and, the oath required by law being administered, he took his seat in the Senate.

## **MONDAY, March 5.**

### ***Affairs with France.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The first despatches from our Envoys Extraordinary, since their arrival at Paris, were received at the Secretary of State's office at a late hour the last evening. They are all in a character which will require some days to be deciphered, except the last, which is dated the 8th of January, 1798. The contents of this letter are of so much importance to be immediately made known to Congress and to the public, especially to the mercantile part of our fellow-citizens, that I have thought it my duty to communicate them to both Houses without loss of time.

JOHN ADAMS.

UNITED STATES, *March 5, 1798.*

The Message and paper therein referred to were read, and ordered to lie for consideration.

## **MONDAY, March 19.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The despatches from the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message to both Houses of Congress, of the fifth instant, have been examined and maturely considered.

While I feel a satisfaction in informing you that their exertions, for the adjustment of the differences between the two nations, have been sincere and unremitting, it is incumbent on me to declare, that I perceive no ground of expectation that the

objects of their mission can be accomplished, on terms compatible with the safety, the honor, or the essential interests of the nation.

This result cannot, with justice, be attributed to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests, for the preservation of peace. Knowing it to be my duty, and believing it to be your wish, as well as that of the great body of the people, to avoid, by all reasonable concessions, any participation in the contentions of Europe, the powers vested in our Envoys were commensurate with a liberal and pacific policy, and that high confidence which might justly be reposed in the abilities, patriotism, and integrity, of the characters to whom the negotiation was committed. After a careful review of the whole subject, with the aid of all the information I have received, I can discern nothing which could have insured or contributed to success, that has been omitted on my part, and nothing further which can be attempted, consistently with maxims for which our country has contended at every hazard, and which constitute the basis of our national sovereignty.

Under these circumstances, I cannot forbear to reiterate the recommendations which have been formerly made, and to exhort you to adopt, with promptitude, decision, and unanimity, such measures as the ample resources of the country afford, for the protection of our seafaring and commercial citizens; for the defence of any exposed portions of our territory; for replenishing our arsenals, establishing foundries and military manufactures; and to provide such efficient revenue, as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce.

The present state of things is so essentially different from that in which instructions were given to the collectors to restrain vessels of the United States from sailing in an armed condition, that the principle on which those orders were issued has ceased to exist. I therefore deem it proper to inform Congress, that I no longer conceive myself justifiable in continuing them, unless in particular cases, where there may be reasonable ground of suspicion that such vessels are intended to be employed contrary to law.

In all your proceedings, it will be important to manifest a zeal, a vigor, and concert, in defence of the national rights, proportioned to the danger with which they are threatened.

JOHN ADAMS.

UNITED STATES, *March 19, 1798.*

The Message was read and referred to the committee appointed on the 29th November last, who have under consideration that part of the Speech of the PRESIDENT OF THE UNITED STATES, at the commencement of the session, which relates to the protection of commerce, to consider and report thereon to the Senate.

### **TUESDAY, April 3.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

In compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit to both Houses those instructions to, and despatches from, the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message of the nineteenth of March last, omitting only some names, and a few expressions descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

UNITED STATES, *April 3, 1798.*

The galleries being cleared, the Message and documents were read.

*Ordered,* That they lie for consideration.

### **MONDAY, April 16.**

The VICE PRESIDENT communicated a letter from JOHN SLOSS HOBART, resigning his seat in the Senate, in consequence of his appointment to be Judge of the New York district; which letter was read. [Pg 173]

*Ordered,* That the VICE PRESIDENT be requested to notify the Executive of the State of New York that JOHN SLOSS HOBART hath accepted the appointment of Judge of the New York district, and that his seat in the Senate is of course vacated.

### **TUESDAY, April 17.**

The bill authorizing the PRESIDENT OF THE UNITED STATES to raise a provisional army was read the second time.

### WEDNESDAY, May 2.

The Senate resumed the consideration of the report of the committee authorizing Thomas Pinckney, late Envoy Extraordinary to the King of Spain, and Minister Plenipotentiary to the King of Great Britain, to receive the customary presents to foreign Ministers at those courts.

On the question to agree to the first resolution reported, to wit:

*"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that Thomas Pinckney, Esq., who, as Envoy Extraordinary of the United States, negotiated the Treaty of Friendship, Limits, and Navigation between the United States and the King of Spain, may receive from the said King such present as it is customary for His Catholic Majesty to make to such persons as negotiate treaties with him:"*

It passed in the affirmative—yeas 17, nays 5, as follows:

YEAS.—MESSRS. Anderson, Bingham, Bloodworth, Clayton, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Martin, Read, Sedgwick, Stockton, and Tracy.

NAYS.—Messrs. Brown, Langdon, Marshall, Mason, and Tazewell.

And the other resolution reported was agreed to, in the words following:

*And be it further resolved, That Congress doth consent that the said Thomas Pinckney, Esq., lately Minister Plenipotentiary from the United States to the King of Great Britain, may receive from the said King such present as it is customary for His Britannic Majesty to make to Ministers Plenipotentiary on taking leave of him.*

### THURSDAY, June 21.

#### *Affairs with France.*

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

While I congratulate you on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter received by him from Mr. Gerry, the only one of the three who has not received his *congé*. This letter, together with another, from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will show the situation in which he remains; his intentions and prospects.

I presume that, before this time, he has received fresh instructions, (a copy of which accompanies this message,) to consent to no loans, and therefore the negotiation may be considered at an end.

I will never send another Minister to France without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

UNITED STATES, *June 21, 1798.*

The Message and documents were read.

*Resolved*, That five hundred copies thereof be printed for the use of the Senate.

### MONDAY, June 25.

The bill to declare the treaties between the United States and the Republic of France void and of no effect, was read the third time; and the final passage of the bill was determined in the affirmative—yeas 14, nays 5, as follows:

YEAS.—MESSRS. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Laurance, Livermore, Lloyd, North, Paine, Read, Sedgwick, and Tracy.

NAYS.—Messrs. Brown, Langdon, Martin, Mason, and Tazewell.

*Resolved*, That this bill pass: that it be engrossed; and that the title thereof be, "An act to declare the treaties between the United States and the Republic of France void and of no effect."

### WEDNESDAY, June 27.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides, and THEODORE SEDGWICK was duly elected.

The bill to define more particularly the crime of treason, and to define and punish the crime of sedition, was read the second time.

On motion that this bill be committed, it passed in the affirmative—yeas 15, nays 6, as follows:

YEAS.—Messrs. Bingham, Chipman, Foster, Goodhue, Hillhouse, Howard, Latimer, Laurance, Lloyd, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS.—Messrs. Anderson, Brown, Langdon, Livermore, Martin, and Mason.

*Ordered*, That this bill be referred to Messrs. LLOYD, TRACY, STOCKTON, CHIPMAN, and READ, to consider and report thereon to the Senate.

### FRIDAY, June 29.

The bill to authorize the PRESIDENT to prevent and regulate the landing of French passengers, and other persons who may arrive within the United States from foreign places, was read the third time.

On motion, to amend the proviso to the fourth section to read as follows:

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"*Provided*, That nothing in this act shall be construed to prohibit the migration or importation of such persons as any State may think proper by law to admit, nor to such persons whose admission may be prohibited by the respective States:"

It was determined in the negative—yeas 3, nays 17, as follows:

YEAS.—Messrs. Anderson, Mason, and Tazewell.

NAYS.—Messrs. Bingham, Foster, Goodhue, Hillhouse, Howard, Langdon, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Sedgwick, Stockton, and Tracy.

On motion by Mr. MASON, to strike out these words from the preamble:

"The peculiar circumstances of the United States, in relation to the Republic of France, and the citizens thereof, require that, whilst the United States have afforded hospitality and protection to Frenchmen who have sought an asylum in this country, they should, on the other hand, guard against the arrival and admission of such evil-disposed persons as by their machinations, may endanger the internal safety and tranquillity of the country;" in order to insert the following words: "It is represented that, on the evacuation of Port au Prince by the British troops, a number of French white men and negroes were put on board of vessels bound to the United States, some of which have arrived, and others may be shortly expected, and it is deemed dangerous to admit indiscriminately such persons into the United States:"

It was agreed to divide the motion, and that the words should be struck out; and, on the question to agree to the substitute, it was determined in the negative—yeas 10, nays 10, as follows:

YEAS.—Messrs. Anderson, Bingham, Langdon, Laurance, Livermore, Martin, Mason, North, Read, and Tazewell.

NAYS.—Messrs. Foster, Goodhue, Hillhouse, Howard, Latimer, Lloyd, Paine, Sedgwick, Stockton, and Tracy.

So the amendment was lost.

And the bill being further amended, by striking out the remainder of the preamble,

*Resolved*, That the consideration of this bill be postponed until to-morrow.

### SATURDAY, June 30.

The Senate resumed the third reading of the bill to authorize the PRESIDENT to prevent or regulate the landing of French passengers, and other persons who may arrive within the ports of the United States from foreign places.

On motion, by Mr. MARTIN, one of the majority in favor of the exception yesterday agreed to, namely, "except children under the age of twelve years, and women, in cases especially authorized by the PRESIDENT," and that it be reconsidered, it was determined in the negative—yeas 6, nays 15, as follows:

YEAS.—Messrs. Hillhouse, Howard, Lloyd, Martin, and Read.

NAYS.—Messrs. Bingham, Brown, Chipman, Foster, Goodhue, Langdon, Latimer, Laurance, Livermore, North, Paine, Sedgwick, Stockton, Tazewell, and Tracy.

*Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to authorize the PRESIDENT to prevent or regulate the landing of French passengers, and other persons, who may arrive within the ports of the United States from foreign places."

The Senate resumed the second reading of the bill, sent from the House of Representatives, entitled "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves, within the United States."

On motion, by Mr. PAINE, to agree to the following amendment to the proviso in the eighth

section, "And all uncultivated lands, except such as make part or parcel of a farm; and except wood lots, used or reserved for the purposes of fuel, fencing, lumber, or building:"

It was determined in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bingham, Brown, Chipman, Goodhue, Latimer, Laurance, Livermore, Paine, Sedgwick, and Stockton.

NAYS.—Messrs. Foster, Hillhouse, Howard, Langdon, Lloyd, Martin, Mason, North, Read, Tazewell, and Tracy.

On motion, by one of the majority, to reconsider and restore the following words, struck out from the end of the proviso to the eighth section: "or which, at the time of making the said valuation or enumeration, shall not have been assessed for, nor be then held liable to, taxation under the laws of the State wherein the same is, or may be, situated or possessed, shall be exempted from the aforesaid valuation and enumeration:"

It was determined in the negative—yeas 6, nays 14, as follows:

YEAS.—Messrs. Bingham, Foster, Howard, Latimer, Laurance, and North.

NAYS.—Messrs. Brown, Chipman, Goodhue, Hillhouse, Langdon, Livermore, Lloyd, Martin, Mason, Paine, Read, Sedgwick, Tazewell, and Tracy.

On motion, by Mr. MASON, to add the following words to the end of the eighth section: "except such as, from fixed infirmity or bodily disability, may be incapable of labor:"

It was determined in the affirmative—yeas 11, nays 8, as follows:

YEAS.—Messrs. Howard, Langdon, Latimer, Livermore, Lloyd, Martin, Mason, Paine, Read, Sedgwick, and Tazewell.

NAYS.—Messrs. Bingham, Brown, Foster, Goodhue, Hillhouse, Laurance, North, and Tracy.

On motion, by Mr. BROWN, to strike out of that part of the eighth section which respects the enumeration of slaves these words "above the age of twelve, and under the age of fifty years:"

It was determined in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bingham, Brown, Chipman, Goodhue, Hillhouse, Latimer, Laurance, Lloyd, North, and Sedgwick.

NAYS.—Messrs. Foster, Howard, Langdon, Livermore, Martin, Mason, Paine, Read, Stockton, Tazewell, and Tracy.

The report of the committee having been agreed to, and the bill amended accordingly, *Resolved*, That it pass to the third reading as amended.

## **MONDAY, July 2.**

JOHN RUTHERFORD, from the State of New Jersey, attended.

## **TUESDAY, July 3.**

The Senate resumed the consideration of the report of the committee to whom was referred the bill to define more particularly the crime of treason, and to define and punish the crime of sedition; and having agreed to the report, the bill was amended accordingly; and the question to agree to the third reading of the bill, as amended, was determined in the affirmative—yeas 18, nays 5, as follows:

YEAS.—Messrs. Bingham, Chipman, Clayton, Foster, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherford, Sedgwick, Stockton, and Tracy.

NAYS.—Messrs. Anderson, Brown, Langdon, Mason, and Tazewell.

## **WEDNESDAY, July 4.**

### ***Treason and Sedition.***

#### **BILL TO DEFINE.**

On motion to expunge the following words from the second section reported as an amendment:

"Or shall, in manner aforesaid, traduce or defame the PRESIDENT OF THE UNITED STATES, or any Court or Judge thereof, by declarations, tending to criminate their motives in any official transaction:"

It was determined in the negative—yeas 8, nays 15, as follows:

YEAS.—Messrs. Anderson, Brown, Howard, Langdon, Martin, Mason, North, and Tazewell.

NAYS.—Messrs. Chipman, Clayton, Foster, Goodhue, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Rutherford, Sedgwick, Stockton, and Tracy.



On motion to expunge the whole of the second section reported by the committee, in the words following:

"SEC. 2. *And be it further enacted*, That if any person shall, by any libellous or scandalous writing, printing, publishing, or speaking, traduce or defame the Legislature of the United States, by seditious or inflammatory declarations or expressions, with intent to create a belief in the citizens thereof, that the said Legislature, in enacting any law, was induced thereto by motives hostile to the constitution, or liberties and happiness of the people thereof; or shall, in manner aforesaid, traduce or defame the PRESIDENT OF THE UNITED STATES or any Court or Judge thereof, by declarations tending to criminate their motives, in any official transaction; the person so offending, and thereof convicted, before any court of the United States having jurisdiction thereof, shall be punished by a fine, not exceeding two thousand dollars, and by imprisonment, not exceeding two years:"

It was determined in the negative—yeas 6, nays 18, as follows:

YEAS.—Messrs. Anderson, Brown, Howard, Langdon, Mason, and Tazewell.

NAYS.—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Rutherford, Sedgwick, Stockton, and Tracy.

The question on the final passage of the bill was determined in the affirmative—yeas 18, nays 6, as follows:

YEAS.—Messrs. Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Martin, North, Paine, Read, Rutherford, Sedgwick, Stockton, and Tracy.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States.'"

### WEDNESDAY, July 11.

The bill for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States, was read the third time; and the final passage of the bill was determined in the affirmative—yeas 16, nays 4, as follows:

YEAS.—Messrs. Anderson, Bingham, Chipman, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Sedgwick, Stockton, and Tracy.

NAYS.—Messrs. Brown, Langdon, Mason, and Tazewell.

So it was *Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act for encouraging the capture of French armed vessels, by armed ships or vessels owned by a citizen or citizens of the United States."

### THURSDAY, July 12.

The Senate resumed the third reading of the bill, entitled "An act making further appropriations for the additional Naval Armament;" and the question on the final passage of the bill, as amended, was determined in the affirmative—yeas 13, nays 3, as follows:

YEAS.—Messrs. Bingham, Chipman, Clayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Martin, North, Paine, Read, Rutherford, Sedgwick, Stockton, and Tracy.

NAYS.—Messrs. Anderson, Mason, and Tazewell.

So it was *Resolved*, That this bill do pass as amended.

### FRIDAY, July 13.

Mr. READ, from the committee to whom was referred the bill, sent from the House of Representatives, entitled "An act providing for the enumeration of the inhabitants of the United States," reported the bill without amendment.

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On motion, by Mr. LIVERMORE, to postpone the further consideration of this bill to the next session of Congress, it was determined in the affirmative—yeas 11, nays 7.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

A resolution of both Houses of Congress, authorizing an adjournment on Monday, the 16th of this month, has been laid before me. Sensible of the severity of the service in so long a session, it is with great reluctance that I find myself obliged to offer any consideration which may operate against the inclination of the members; but certain measures of Executive authority which will require the consideration of the Senate, and which cannot be matured, in all probability, before Monday or Tuesday, oblige me to request of the Senate that they would continue their session

until Wednesday or Thursday.

JOHN ADAMS.

UNITED STATES, *July 13, 1798.*

The Message was read, and ordered to lie for consideration.

### MONDAY, July 16.

The Senate took into consideration the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES of the 13th instant, and which is as follows:

"That as, in the opinion of the PRESIDENT, certain measures of Executive authority will acquire the consideration of the Senate, and which could not be matured before Monday or Tuesday, it is the opinion of the committee, that the Senate should adjourn in their Executive capacity to meet to-morrow at the Senate Chamber, at ten o'clock in the forenoon, on Executive business."

And the report was adopted.

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 notify him, that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn; and desire the appointment of a committee on the part of the Senate.

The Senate took into consideration this resolution of the House of Representatives.

*Resolved*, That they do concur therein, and that Messrs. CHIPMAN and GREENE be the committee on the part of the Senate.

Mr. CHIPMAN reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, who informed them that he had nothing further to communicate to Congress, except what might result from the last enrolled bill now under his consideration.

*Ordered*, That the Secretary acquaint the House of Representatives therewith; and that the Senate, having finished the Legislative business before them, are about to adjourn.

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.

The Senate then went into the consideration of Executive business—after which,

The PRESIDENT declared the Senate, so far as respects its Legislative functions, adjourned to the time by the constitution prescribed; and, in its Executive capacity, until to-morrow morning at ten o'clock.

### TUESDAY, July 17, 1798.

Agreeably to the adjournment of yesterday, as stated at large in the Legislative proceedings, the Senate assembled.

PRESENT:

THEODORE SEDGWICK, President *pro tempore*, from the State of Massachusetts.

BENJAMIN GOODHUE, from Massachusetts.

NATHANIEL CHIPMAN, from Vermont.

JAMES HILLARY and URIAH TRACY, from Connecticut.

THEODORE FOSTER and RAY GREENE, from Rhode Island.

JOHN LAURANCE and WILLIAM NORTH, from New York.

JOHN RUTHERFORD, from New Jersey.

WILLIAM BINGHAM, from Pennsylvania.

HENRY LATIMER, from Delaware.

JOHN E. HOWARD, from Maryland.

HENRY TAZEWELL, from Virginia.

JOHN BROWN, from Kentucky.

JOSEPH ANDERSON, from Tennessee.

ALEXANDER MARTIN, from North Carolina.

JACOB READ, from South Carolina.

*Ordered*, That the following summons, directed to the Senators of the United States, respectively, be entered on the journals:

*The President of the United States to —, Senator for the State of —.*

Certain matters touching the public good, requiring that the session of the Senate, for Executive business, should be continued, and that the members thereof should

convene on Tuesday, the 17th day of July, inst., you are desired to attend at the Senate Chamber, in Philadelphia, on that day, at ten o'clock in the forenoon, then and there to receive and deliberate on such communications as shall be made to you on my part.

JOHN ADAMS.

UNITED STATES, *July 16, 1798.*

**WEDNESDAY, July 18.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

Believing that the letter received this morning from General Washington, will give high satisfaction to the Senate, I transmit them a copy of it, and congratulate them and the public on this great event—the General's acceptance of his appointment as Lieutenant General and Commander-in-Chief of the Army.

JOHN ADAMS.

UNITED STATES, *July 17, 1798.*

MOUNT VERNON, *July 13, 1798.*

DEAR SIR: I had the honor, on the evening of the 11th instant, to receive from the hands of the Secretary of War, your favor of the 7th, announcing that you had, with the advice and consent of the Senate, appointed me Lieutenant General and Commander-in-Chief of all the armies raised or to be raised for the service of the United States.

I cannot express how greatly affected I am at this new proof of public confidence, and the highly flattering manner in which you have been pleased to make the communication; at the same time I must not conceal from you my earnest wish that the choice had fallen upon a man less declined in years, and better qualified to encounter the usual vicissitudes of war.

You know, sir, what calculation I had made relative to the probable course of events on my retiring from office, and the determination I had consoled myself with, of closing the remnant of my days in my present peaceful abode; you will, therefore, be at no loss to conceive and appreciate the sensations I must have experienced to bring my mind to any conclusion that would pledge me, at so late a period of life, to leave scenes I sincerely love, to enter upon the boundless field of public action, incessant trouble, and high responsibility.

It was not possible for me to remain ignorant of, or indifferent to, recent transactions. The conduct of the Directory of France towards our country; their insidious hostility to its Government; their various practices to withdraw the affections of the people from it; the evident tendency of their acts and those of their agents to countenance and invigorate opposition; their disregard of solemn treaties and the laws of nations; their war upon our defenceless commerce; their treatment of our ministers of peace; and their demands, amounting to tribute; could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your Administration. They ought to inspire universal confidence; and will, no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis.

Satisfied, therefore, that you have sincerely wished and endeavored to avert war, and exhausted, to the last drop, the cup of reconciliation, we can with pure hearts appeal to Heaven for the justice of our cause, and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favored the people of these United States.

Thinking in this manner, and feeling how incumbent it is upon every person, of every description, to contribute at all times to his country's welfare, and especially in a moment like the present, when every thing we hold dear and sacred is so seriously threatened, I have finally determined to accept the commission of Commander-in-Chief of the Armies of the United States; with the reserve only that I shall not be called into the field until the Army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances.

In making this reservation, I beg it to be understood, that I do not mean to withhold any assistance to arrange and organize the Army, which you may think I can afford. I take the liberty also to mention, that I must decline having my acceptance considered as drawing after it any immediate charge upon the public, or that I can receive any emoluments annexed to the appointment, before entering into a situation to incur expense.

The Secretary of War being anxious to return to the seat of Government, I have detained him no longer than was necessary to a full communication upon the

several points he had in charge.

With very great respect and consideration, I have the honor to be, dear sir, your most obedient and humble servant,

G. WASHINGTON.

JOHN ADAMS, *President of the United States.*

The Message and letter were read, and five hundred copies thereof ordered to be printed for the use of the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

I nominate Alexander Hamilton, of New York, to be Inspector General of the Army, with the rank of Major General.

Charles Cotesworth Pinckney, of South Carolina, to be a Major General.

Henry Knox, of Massachusetts, to be a Major General.

Henry Lee, of Virginia, to be a Major General of the Provisional Army.

Edward Hand, of Pennsylvania, to be a Major General of the Provisional Army.

John Brooks, of Massachusetts, to be a Brigadier General.

William Washington, of South Carolina, to be a Brigadier General.

Jonathan Dayton, of New Jersey, to be a Brigadier General.

William Stevens Smith, of New York, to be Adjutant General, with the rank of Brigadier General.

Ebenezer Huntington, of Connecticut, to be a Brigadier General of the Provisional Army.

Anthony Walton White, to be a Brigadier General of the Provisional Army.

William Richardson Davie, of North Carolina, to be a Brigadier General of the Provisional Army.

John Sevier, of Tennessee, to be a Brigadier General of the Provisional Army.

James Craik, of Virginia, to be Physician General of the Army.

JOHN ADAMS.

JULY 18, 1798.

The Message was read, and ordered to lie for consideration.

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The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

I nominate William Winder, of Maryland, to be Accountant of the Navy.

JOHN ADAMS.

JULY 18, 1798.

### **THURSDAY, July 19.**

The Senate took into consideration the Message of the PRESIDENT OF THE UNITED STATES, of the 18th instant, and the nomination contained therein, of William Winder, to office. Whereupon,

*Resolved*, That they do advise and consent to the appointment agreeably to the nomination.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

The Senate took into consideration the Message of the PRESIDENT OF THE UNITED STATES, of the 18th instant, and the nominations contained therein, of Alexander Hamilton, and others, to military appointment. Whereupon,

*Resolved*, That they do advise and consent to the appointments, agreeably to the nominations, respectively; except to that of William Stevens Smith, of New York, to be Adjutant General, with the rank of Brigadier General, to which they do not advise and consent.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

*Ordered*, That Mr. BINGHAM and Mr. LAURANCE be a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him, that having finished the Executive business before them, they are ready to adjourn, unless he may have any further matters for their consideration.

Mr. BINGHAM reported, from the committee last mentioned, that the PRESIDENT OF THE UNITED STATES informed them that he had a further communication to make to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

I nominate William North, of New York, to be Adjutant General of the Army, with the rank of Brigadier General.

UNITED STATES, *July 19, 1798.*

The Message was read.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that the said nomination be now considered. Whereupon,

*Resolved*, That they do advise and consent to the appointment, agreeably to the nomination.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES. Whereupon,

The PRESIDENT adjourned the Senate to the first Monday in December next, to meet in this place.

## FIFTH CONGRESS.—SECOND SESSION.

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### PROCEEDINGS AND DEBATES In THE HOUSE OF REPRESENTATIVES.

#### MONDAY, November 13, 1797.

This being the day appointed by law for the meeting of Congress, the House of Representatives assembled in their Chamber, and the following members answered to their names, to wit:

*From New Hampshire.*—ABIEL FOSTER.

*From Massachusetts.*—STEPHEN BULLOCK, SAMUEL LYMAN, JOHN READ, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

*From Connecticut.*—JOHN ALLEN, JOSHUA COIT, ROGER GRISWOLD, and NATHANIEL SMITH.

*From New York.*—LUCAS ELMENDORPH, HENRY GLENN, JONATHAN N. HAVENS, HEZEKIAH L. HOSMER, JOHN E. VAN ALLEN, and JOHN WILLIAMS.

*From New Jersey.*—JONATHAN DAYTON, (Speaker,) and THOMAS SINNICKSON.

*From Pennsylvania.*—JOHN CHAPMAN, ALBERT GALLATIN, THOMAS HARTLEY, and JOHN SWANWICK.

*From Maryland.*—GEORGE BAER, junior, WILLIAM CRAIK, GEORGE DENT, and RICHARD SPRIGG, junior.

*From Virginia.*—JOHN DAWSON, D. HOLMES, JAMES MACHIR, DANIEL MORGAN, and ANTHONY NEW.

*North Carolina.*—MATTHEW LOCKE, NATHANIEL MACON, and RICHARD STANFORD.

*South Carolina.*—ROBERT GOODLOE HARPER, and JOHN RUTLEDGE, junior.

Several new members, to wit: ISAAC PARKER, from Massachusetts; THOMAS TILLINGHAST, returned to serve as a member of this House, for the State of Rhode Island, in the room of Elisha R. Potter, who has resigned his seat; and WILLIAM EDMOND, returned to serve in this House, as a member for Connecticut, in the room of James Davenport, deceased, appeared, produced their credentials, and took their seats in the House.

But a quorum of the whole number not being present, the House adjourned until to-morrow morning, eleven o'clock.

#### TUESDAY, November 14.

Several other members, to wit: from Massachusetts, HARRISON G. OTIS; from Rhode Island, CHRISTOPHER G. CHAMPLIN; from Connecticut, SAMUEL W. DANA and CHAUNCEY GOODRICH; from Vermont, MATTHEW LYON; from Pennsylvania, BLAIR McCLENACHAN and RICHARD THOMAS; from Delaware, JAMES A. BAYARD; from Virginia, RICHARD BRENT; from North Carolina, ROBERT WILLIAMS; from South Carolina, WILLIAM SMITH; and from Georgia, ABRAHAM BALDWIN, appeared, and took their seats in the House.

But a quorum of the whole number not being present, the House adjourned until to-morrow morning, eleven o'clock.

#### WEDNESDAY, November 15.

Several other members, to wit: from New Jersey, JAMES H. IMLAY; from Pennsylvania, WILLIAM FINDLAY; and from Maryland, WILLIAM HINDMAN, appeared, and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present, the oath to support the Constitution of the United States was administered, by Mr. SPEAKER, to the following new members, to wit:

ISAAC PARKER, THOMAS TILLINGHAST, and WILLIAM EDMOND, who took their seats in the House on Monday last.

A message was then sent to the Senate, to inform them that a quorum of the House is assembled, and were ready to proceed to business.

#### THURSDAY, November 16.

Several other members, to wit: from Vermont, LEWIS R. MORRIS; from New York, JAMES COCHRAN, and EDWARD LIVINGSTON; from Virginia, MATTHEW CLAY, THOMAS EVANS, WALTER JONES, ABRAM TRIGG, and JOHN TRIGG; and from North Carolina, WILLIAM BARRY GROVE, appeared, and took their seats in the House.

And then the House adjourned until to-morrow morning, eleven o'clock.

### **FRIDAY, November 17.**

Two other members, to wit: from New Jersey, MARK THOMSON; and from Pennsylvania, JOHN A. HANNA, appeared, and took their seats in the House.

### **MONDAY, November 20.**

Several other members, to wit: from New Hampshire, JONATHAN FREEMAN and WILLIAM GORDON; from New Jersey, JAMES SCHUREMAN; from Maryland, WILLIAM MATTHEWS; and from Virginia, ABRAHAM VENABLE, appeared, and took their seats in the House.

### **TUESDAY, November 21.**

Several other members, to wit: from Massachusetts, DWIGHT FOSTER; from New York, PHILIP VAN CORTLANDT; and from Virginia, CARTER B. HARRISON, appeared, and took their seats in the House.

### **WEDNESDAY, November 22.**

Two other members, to wit: from Pennsylvania, DAVID BARD, and SAMUEL SITGREAVES, appeared and took their seats.

### **THURSDAY, November 23.**

Two new members, to wit: WILLIAM C. C. CLAIBORNE, from the State of Tennessee; and THOMAS PINCKNEY, returned to serve as a member of this House for the State of South Carolina, in the room of William Smith, appointed Minister Plenipotentiary of the United States to the Court of Lisbon, 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.

Two other members, to wit: from Virginia, THOMAS CLAIBORNE and JOHN CLOPTON, appeared, and took their seats in the House.

### ***President's Speech.***

The hour of twelve being near at hand, the SPEAKER announced it, and a message was sent to the Senate to inform them that they were met, and ready to receive the communications of the PRESIDENT OF THE UNITED STATES, agreeably to his appointment.

The members of the Senate attended accordingly, and about a quarter after twelve the PRESIDENT OF THE UNITED STATES (after visiting the Senate Chamber) entered the House, accompanied by his Secretary and the Heads of Departments, and being seated, rose and delivered the following Address. (See Senate proceedings, *ante*.)

Having concluded his Speech, and delivered copies of it to the PRESIDENT *pro tem.* of the Senate, and to the SPEAKER of the House of Representatives, the PRESIDENT retired, the SPEAKER resumed the chair, and the House being come to order, he, as usual, read the Speech from the chair. This being done, on motion, it was referred to a Committee of the whole House, and made the order for to-morrow. It was ordered also to be printed.

### **MONDAY, November 27.**

A new member, to wit: BAILEY BARTLETT, returned to serve in this House as a member for Massachusetts, in the place of Theophilus Bradbury, who has resigned his seat, 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.

Several other members, to wit: from Massachusetts, SAMUEL SEWALL; from New York, DAVID BROOKS; from Maryland, JOHN DENNIS; from Virginia, JOHN NICHOLAS and JOSIAH PARKER; and from North Carolina, THOMAS BLOUNT, appeared and took their seats in the House.

### ***Address to the President.***

Mr. OTIS, from the committee appointed to draft an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES, reported the following, which was twice read, and referred to a Committee of the Whole for to-morrow:

SIR: While our sympathy is excited by the recent sufferings of the citizens of Philadelphia, we participate in the satisfaction which you are pleased to express,

that the duration of the late calamity was so limited, as to render unnecessary the expense and inconvenience that would have been incident to the convention of Congress in another place: and we shall readily attend to every useful amendment of the law which contemplates the event of contagious sickness at the seat of Government.

In lamenting the increase of the injuries offered to the persons and property of our citizens at sea, we gratefully acknowledge the continuance of interior tranquillity, and the attendant blessings of which you remind us, as alleviations of these fatal effects of injustice and violence.

Whatever may be the result of the mission to the French Republic, your early and uniform attachment to the interest of our country; your important services in the struggle for its independence, and your unceasing exertions for its welfare, afford no room to doubt of the sincerity of your efforts to conduct the negotiation to a successful conclusion, on such terms as may be compatible with the safety, honor, and interest of the United States. We have also a firm reliance upon the energy and unanimity of the people of these States, in the assertion of their rights, and on their determination to exert, upon all proper occasions, their ample resources in providing for the national defence.

The importance of commerce, and its beneficial influence upon agriculture, arts, and manufactures, have been verified in the growth and prosperity of our country. It is essentially connected with the other great interests of the community. They must flourish and decline together; and while the extension of our navigation and trade naturally excites the jealousy, and tempts the avarice of other nations, we are firmly persuaded, that the numerous and deserving class of citizens engaged in these pursuits, and dependent on them for their subsistence, has a strong and indisputable claim to our support and protection.

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The delay of the Spanish officers to fulfil the treaty existing with His Catholic Majesty is a source of deep regret. We learn, however, with satisfaction, that you still indulge hopes of removing the objections which have been made to its execution, and that you have continued in readiness to receive the posts. Disposed to perform, with fidelity, our national engagements, we shall insist upon the same justice from others which we exercise towards them.

Our abhorrence cannot be too strongly expressed of the intrigues of foreign agents to alienate the affections of the Indian nations, and to rouse them to acts of hostility against the United States. No means in our power should be omitted of providing for the suppression of such cruel practices, and for the adequate punishment of their atrocious authors.

Upon the other interesting subjects noticed in your Address, we shall bestow the requisite attention. To preserve inviolate the public faith, by providing for the due execution of our treaties; to indemnify those who may have just claims to retribution upon the United States for expenses incurred in defending the property and relieving the necessities of our unfortunate fellow-citizens; to guard against evasions of the laws intended to secure advantages to the navigation of our own vessels; and especially, to prevent, by all possible means, an unnecessary accumulation of the public debt, are duties which we shall endeavor to keep in view, and discharge with assiduity.

We regard, with great anxiety, the singular and portentous situation of the principal powers of Europe. It was to be devoutly wished that the United States, remote from this seat of war and discord; unambitious of conquest; respecting the rights of other nations; and desirous, merely, to avail themselves of their natural resources, might be permitted to behold the scenes which desolate that quarter of the globe with only those sympathetic emotions which are natural to the lovers of peace and friends of the human race. But we are led by events to associate with these feelings a sense of the dangers which menace our security and peace. We rely upon your assurances of a zealous and hearty concurrence in such measures as may be necessary to avert these dangers; and nothing on our part shall be wanting to repel them, which the honor, safety, and prosperity of our country may require.

## **TUESDAY, November 28.**

SAMUEL SMITH, from Maryland, appeared and took his seat.

### ***Address to the President.***

Mr. COIT moved for the order of the day on the reported Answer to the PRESIDENT'S Speech.

The motion being agreed to, the House accordingly resolved itself into a Committee of the Whole upon that subject, and the Address having been read through by the Chairman, it was again read by paragraphs. The first four were read, without any objection being offered to them. The fifth being gone through,

Mr. PINCKNEY said, he had to propose a small alteration to this clause: he wished to make the latter part of it a little less harsh. Instead of saying, "we shall insist upon the same justice from others," &c., he thought it would have the same effect, and the terms would be less objectionable, if the passage ran thus: "Nothing shall be wanting on our part to obtain the same justice from others," &c. The expression used, he said, might be perfectly justifiable, but, if we could obtain what we wished without the possibility of giving offence, he thought that mode ought to be preferred. It was on this account that he wished the phraseology to be changed.

Mr. RUTLEDGE said, as a member of the committee who reported the Address, he did not feel tenacious as to the wording of it. At first, he thought with his colleague, who proposed the amendment, that the word *insist* was rather harsh; but, upon a little reflection, his objections to the phrase were removed. Indeed, he thought the proposed amendment would make the passage stronger than it was in the original. They might insist, he said, in argument; looking upon the treaty as a good one, they might insist upon its execution; but if it were not to be effected without going to war, they might afterwards relinquish it. The amendment he thought more forcible. It said "nothing shall be wanting to obtain," &c.; which would be to say, we look upon the treaty as a good one, and nothing shall be wanting on our part to obtain its fulfilment. The words might even be considered to say, that we are determined to have the treaty carried into effect, though war should be the price of the determination.

Mr. DAYTON (the Speaker) approved of the amendment of the gentleman from South Carolina, but not from the reasons which that gentleman had urged in support of it, but for those which his colleague had produced against it; not because it was more smooth, but because it contained more of decision and firmness. He thought, in this respect, this country had been trifled with, and any opinion expressed by them upon this subject ought to be done with a firmness of tone.

The question on Mr. PINCKNEY'S amendment was put and carried, there being sixty-two members in the affirmative.

The remainder of the Address was then gone through, without further observation.

Mr. OTIS, from the committee appointed to wait upon the PRESIDENT, to know when and where it would be convenient for him to receive the Address in answer to his Speech, reported that they had attended to that service, and that it would be convenient for him to receive it at his house tomorrow at twelve o'clock.

## **WEDNESDAY, November 29.**

### ***Address to the President.***

Mr. LYON said, when the motion was proposed yesterday on the subject of waiting upon the PRESIDENT, he should have opposed it, only that he did not wish to deprive some gentlemen of the gratification of attending the ceremony; and now he hoped those gentlemen would consent to gratify him by agreeing to a similar resolution to that of last session, excusing him from an attendance upon the occasion.

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Mr. MACON observed, that whether the resolution was agreed to or not, the gentleman might doubtless remain behind if he chose, as he had no idea that the House could compel members to go about parading the streets of Philadelphia. The gentleman might have conscientious scruples, and if the ceremony were meant to be respectful to the PRESIDENT, members should attend it freely, or not at all. He should wish, therefore, that gentlemen disinclined to do the service, would not join it.

Mr. OTIS hoped the motion would not prevail. He presumed no gentleman there was particularly anxious for the society of the gentleman from Vermont on this occasion. No doubt he would grace the procession, but it would be sufficiently long without him, and if he chose to remain behind, he need be under no apprehensions of being called to account for his conduct. It was not becoming the dignity of the House to pass the resolution in question. It appeared to him that the gentleman was in full health and spirits, and every way fit for business; and as the House had resolved the thing should be done, he had no idea of admitting the protest of an individual upon their journals against the measure.

Mr. GALLATIN said he should be in favor of the previous question, but not for the reasons assigned by the mover of it, but for those offered by the gentleman from North Carolina, (Mr. MACON,) viz: because he did not believe there existed any power in that House to compel any member to wait upon the PRESIDENT with the Address; therefore it would be improper to grant an indulgence to a member from doing what there was no obligation upon him to do. He did not recollect the words of the resolution which had been agreed to. [The SPEAKER repeated them. They were, "that the SPEAKER, attended by the House of Representatives, shall wait upon the PRESIDENT, &c."] This, Mr. G. said, must be understood in a qualified sense, as the House of Representatives had no existence out of those walls. When the SPEAKER presented the Address, the House was not present; they could not debate nor do any act as a House. The Address was, therefore, strictly speaking, presented by the SPEAKER, followed by the members of the House of Representatives—as he did not conceive the House had any power without the walls of the house. They could, indeed, appoint committees to do business out of doors, but could not call out the members as a body. Upon this ground he was, therefore, in favor of the previous question.

Mr. LYON said, understanding the matter in the light in which it had been placed by the gentleman from Pennsylvania, he would withdraw his motion.



The SPEAKER announced the arrival of the hour which the PRESIDENT OF THE UNITED STATES had appointed to receive the Address of the House in answer to his Speech; and the SPEAKER, attended by the members, accordingly waited upon the PRESIDENT, at his house, and presented to him the Address: to which the PRESIDENT made the following reply:

*Gentlemen of the House of Representatives:*

I receive this Address from the House of Representatives of the United States with peculiar interest.

Your approbation of the meeting of Congress in this city, and of those other measures of the Executive authority of Government communicated in my Address to both Houses, at the opening of the session, afford me great satisfaction, as the strongest desire of my heart is to give satisfaction to the people and their representatives by a faithful discharge of my duty.

The confidence you express in the sincerity of my endeavors, and the unanimity of the people, does me much honor, and gives me great joy.

I rejoice in that harmony which appears in the sentiments of all the branches of the Government, on the importance of our commerce and our obligations to defend it, as well as in all other subjects recommended to your consideration, and sincerely congratulate you and our fellow-citizens at large on this appearance, so auspicious to the honor, interest, and happiness of the nation.

JOHN ADAMS.

UNITED STATES, *November 29, 1797.*

The SPEAKER and members then returned to the House, and order being obtained, the SPEAKER, as usual, read the Answer of the PRESIDENT from the chair.

### **THURSDAY, November 30.**

THOMPSON J. SKINNER, from Massachusetts, appeared, and took his seat.

#### ***Memorial of Quakers.***

Mr. GALLATIN presented the following memorial of certain citizens, called Quakers, in the name of the annual meeting of that body, lately held in Philadelphia.

*To the Senate and House of Representatives of the United States in Congress assembled:*

The memorial and address of the people called Quakers, from their yearly meeting held in Philadelphia, by adjournments from the 25th of the 9th month, to the 29th of the same, inclusive, 1797, respectfully sheweth:

That, being convened, at this our annual solemnity, for the promotion of the cause of truth and righteousness, we have been favored to experience religious weight to attend our minds, and an anxious desire to follow after those things which make for peace; among other investigations the oppressed state of our brethren of the African race has been brought into view, and particularly the circumstances of one hundred and thirty-four in North Carolina, and many others whose cases have not so fully come to our knowledge, who were set free by members of our religious society, and again reduced into cruel bondage, under the authority of existing or retrospective laws; husbands and wives, and children, separated, one from another; which, we apprehend to be an abominable tragedy, and with other acts, of a similar nature, practised in other States, has a tendency to bring down the judgments of a righteous God upon our land.

This city and neighborhood, and some other parts, have been visited with an awful calamity, which ought to excite an inquiry in the cause and endeavors to do away those things which occasion the heavy clouds that hang over us. It is easy with the Almighty to bring down the loftiness of men by diversified judgments, and to make them fear the rod and Him that hath appointed it.

We wish to revive in your view the solemn engagement of Congress, made in the year one thousand seven hundred and seventy-four, as follows:

"And, therefore, we do for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate, under the sacred ties of virtue, honor, and love of our country, as follows:

"Article 2. We will neither import nor purchase any slaves imported after the first day of December next, after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it.

"Article 3. And will discountenance and discourage every species of extravagance and dissipation, especially horse-racing, and all kinds of gaming, cock-fighting, exhibitions of shows, plays, and other expensive diversions and entertainments."

This was a solemn league and covenant, made with the Almighty in an hour of

distress, and He is now calling upon you to perform and fulfil it; but how has this solemn covenant been contravened by the wrongs and cruelties practised upon the poor African race, the increase of dissipation and luxury, and the countenance and encouragement given to play-houses, and other vain amusements! And how grossly is the Almighty affronted on the day of the celebration of Independence! What rioting and drunkenness, chambering and wantonness! to the great grief of sober inhabitants, and the disgrace of our national character.

National evils produce national judgments; we therefore fervently pray the Governor of the Universe may enlighten your understandings and influence your minds, so as to engage you to use every exertion in your power, to have these things redressed.

With sincere desires for your happiness here and hereafter, and that, when you come to close this life, you may individually be able to appeal as a ruler did formerly: "Remember now, O Lord, I beseech thee, how I have walked before thee, in truth and with a perfect heart, and have done that which is good in thy sight."

We remain your friends and fellow-citizens.

Signed in and on behalf of the said meeting, by

JONATHAN EVANS,  
*Clerk to the meeting this year.*

The memorial having been read by the Clerk,

Mr. GALLATIN moved that it be read a second time.

Mr. HARPER hoped not. This was not the first, second, or third time, that the House had been troubled with similar applications, which had a tendency to stir up a class of persons to inflict calamities which would be of greater consequence than any evils which were at present suffered; and this, and every other Legislature, ought to set their faces against remonstrances complaining of what it was utterly impossible to alter.

Mr. THATCHER hoped the petition would have a second reading, and be committed. It appeared to him that this would be the regular way of getting rid of the difficulty which was apprehended. The gentleman who had just sat down said, that this was not the first, second, or third time, that the House had been troubled with similar petitions. This, he said, was natural. If any number of persons considered themselves aggrieved, it was not likely they should leave off petitioning, until the House should act upon their petition. He thought this was what they ought to do. If the Quakers thought themselves aggrieved, it was their duty to present their petition, not only three, five, or seven times, but seventy times, until it was attended to.

Mr. RUTLEDGE should not be opposed to the second reading and reference of this memorial, if he thought the strong censure they deserved would be the report of a committee. This censure, he thought, this body of men ought to have; a set of men who attempt to seduce the servants of gentlemen travelling to the seat of Government, who were incessantly importuning Congress to interfere in a business with which the constitution had said they had no concern. If he was sure this conduct would be reprobated, he would cheerfully vote for a reference of the present petition; but not believing this would be the case, he should be for its laying on the table, or under the table, that they might not only have done with the business for to-day, but finally. At a time when some nations were witnesses of the most barbarous and horrid scenes, these petitioners are endeavoring to incite a class of persons to the commission of similar enormities. He thought the matter of the greatest importance, and that the reference ought by no means to be made.

Mr. SWANWICK was sorry to see so much heat produced by the introduction of this petition. He himself could see no reason why the petition should not be dealt with in the ordinary way. If the petitioners asked for any thing which it was not in the power of the House to grant, it would be of course refused; but this was no reason why their petition should not be treated with ordinary respect. In this memorial, he said, sundry things were complained of; not only slavery, but several other grievances. For instance, play-houses were complained of, whether justly or not, he was not about to decide. With respect to the grievance mentioned in North Carolina, something perhaps might be done to remedy it, without affecting the property which gentlemen seemed so much alarmed about. He could not suppose there was a disposition in the House to violate the property of any man; there was certainly as strong a disposition in the Middle States as in the Southern, to hold inviolable the right of property; nor could he see any reasonable ground for throwing this petition under the table. If these people were wrong in their understanding of this subject, it would be best to appoint a committee to set them right.

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Mr. GALLATIN said it was the practice of the House, whenever a memorial was presented, to have it read a first and a second time, and then to commit it, unless it were expressed in such indecent terms as to induce the House to reject it, or upon a subject upon which petitions had been lately rejected by a large majority of the House. In no other case were petitions rejected without examination and without discussion. He said, without examination and without discussion, because it was impossible, upon a single reading of a petition, to be able to form a sound judgment upon it. Indeed, seeing the way in which the gentleman from South Carolina (Mr. RUTLEDGE) had treated the subject, no cool examination could be expected at present; in the moment of passion it would be best not to decide, but to send the petition to a committee. What was the objection to this mode of proceeding? It was that the subject would shake a certain kind

of property. How so? A petition that reminds us of the fate of certain blacks in this country, which did not refer to slaves, but to free men. This petition was to shake property! In the same manner it might be said that the law of Pennsylvania for the gradual abolition of slavery had also a tendency to destroy that property; or that the Legislative decision of the State of Massachusetts that there shall be no slaves under their Government, would have that effect. But it was said the characters of the petitioners was such as they ought to brand with the mark of disapprobation.

In support of this charge, it was alleged that they were not satisfied with petitioning, but they attempted to debauch and seduce servants—to rob gentlemen of their property. He did not know to what the gentleman who made this assertion alluded; but he believed, if the matter was fairly stated, whatever may have been done in the State of Pennsylvania, has been no more than an endeavor to carry into full effect the laws of the State, which say, that "all men are free when they set their foot within the State," excepting only the servants of Members of Congress.<sup>[25]</sup> As to the moral character of this body of people, though a number of their principles were different from those which he professed, he believed it could not be said, with truth, that they were friends to any kind of disorder; and he was surprised to hear gentlemen suppose that they could or would do any thing which would throw into disorder any part of the Union. On the contrary, he believed them to be good friends of order. Mr. G. said he wished to have avoided a discussion of the merits of the memorial; but when they were told it was improper to do any thing on the subject, it became necessary. He knew it was in their power to do something. They might lay a duty of ten dollars a head on the importation of slaves; he knew a memorial had been presented at a former session respecting the kidnapping of negroes, which had been favorably reported upon. Finally, the present memorial did not apply only to the blacks, but to other objects. With respect to plays, they had a motion last session before them for laying a tax upon them, which had a reference to the subject. By committing this memorial, they should give no decision. If the committee reported they could do nothing in the business, and the House agreed to the report, the matter would be closed in a much more respectful way than by throwing the petition under the table.

Mr. SEWALL said, the gentleman last up had stated two cases in which petitions had been received without a commitment. He might have added a third, more applicable to the present memorial. This was when a petition was upon matter over which this House had no cognizance, especially if it were of such a nature as to excite disagreeable sensations in one part of the House, who were concerned in property which was already held under circumstances sufficiently disagreeable. In such cases, they ought at once to reject the memorial, as it would be misspending time to commit it. If, for instance, a petition should be presented, complaining that a person had refused to discharge an obligation to another, it would be at once acknowledged that the House could not enforce the obligation; but application must be made to a court of justice. So in this case; the petitioners complain of a law of North Carolina. This House, he said, could not change that law. If any thing was done there contrary to right, the courts of that State, as well as those of the United States, were open to afford redress. It was their business, and not the business of that House. They did not come there to act upon subjects agreeable to their feelings, but upon such as the constitution had placed in their hands.

Mr. MACON said, there was not a gentleman in North Carolina who did not wish there were no blacks in the country. It was a misfortune—he considered it as a curse; but there was no way of getting rid of them. Instead of peace-makers, he looked upon the Quakers as war-makers, as they were continually endeavoring in the Southern States to stir up insurrections amongst the negroes.<sup>[26]</sup> It was unconstitutional, he said, in these men to desire the House to do what they had no power to do; as well might they ask the PRESIDENT OF THE UNITED STATES to come and take the SPEAKER'S chair. There was a law in North Carolina, he said, which forbade any person from holding either a black or white person as a slave after he had been set at liberty. The one hundred and thirty-four negroes alluded to in the petition, he knew nothing of. In the war, he said, the Quakers in their State were generally Tories. They began to set free their negroes, when the State passed a law that they should not set them free. If these people were dissatisfied with the law, they had nothing to do but transport their negroes into Pennsylvania, where, the gentleman from that State had told them, they would be immediately free. This subject had already been before the House, but they declined doing any thing in it. It was extraordinary that these people should come, session after session, with their petitions on this subject. They had put play-houses into their memorial; but they had nothing to do with them. In this State, he believed, the Legislature had passed a law authorizing them. It was altogether a matter of State policy. The whole petition was, indeed, unnecessary. The only object seemed to be to sow dissension. A petition could not come there touching any subject on which they had power to act, which he should not be in favor of committing; but this thing being wrong in itself, it was needless to commit it, as no single purpose could be answered by it.

Mr. ISAAC PARKER was of opinion with the gentleman from Pennsylvania, (Mr. GALLATIN,) with respect to the disposal of petitions. But it appeared to him that the subject matter of all petitions should be within the view and authority of the House; if not, to refer them would certainly be a waste of time. He had attended to the petition, and he did not think there was a single object upon which it was in their power to act. Nothing was prayed for. The petitioners speak of the slave trade, and, in general terms, of the immorality of the times, as injurious to the state of society; and wish some means may be taken to prevent the growth of them. To refer a petition of this sort, therefore, to a committee would answer no purpose. He did not think they were more obliged to take up the business than if they had read the address in a newspaper.

Mr. BAYARD said it might be inferred, from the anxiety and warmth of gentlemen, that the question before them was, whether slavery should or should not be abolished. The present was, however,

very remote from such a question, as it was merely whether a memorial should be read a second time. The contents of this memorial, he said, were right or wrong, reasonable or unreasonable; if right, it was proper it should go to a committee; and if wrong, if so clearly absurd as it had been represented, where would be the evil of a reference for a report thereon? He did not like things to be decided in the moment of passion, but from the fullest consideration. In some countries they knew persons accused of crimes were condemned without a hearing; but there could be but one sentiment as to the injustice of such a proceeding. There could be no objection, therefore, upon general principles, to the reference of this petition. But it was said it was not to be sent, because of the general habits of this society. He believed there was no body of men more respectable; they were obedient, and contributed cheerfully to the support of Government; and, either politically or civilly speaking, as few crimes could be imputed to that body as to any other.

This memorial, he said, had been treated as coming from an Abolition Society—it was a memorial of the General Meeting of the people called Quakers; and if only out of respect to that body, it ought to be referred. But it was said it did not contain matter upon which the House could act. Gentlemen seemed not to have attended to the subject-matter of the petition. He did not believe that the House had the power to manumit slaves, but he believed there was not a word in the petition which had a reference to slavery. The petitioners state, indeed, that a number of negroes, not slaves, for negroes may be free, had been taken again into slavery, after they had been freed by their masters. He wished to know whether the House had not jurisdiction over this matter? He was warranted by the constitution in saying they had, because that instrument says that no State shall make *ex post facto* laws. It belonged to that House, therefore, to see that the constitution was respected, as it could not be expected from the justice of the individual States, that they would repeal such laws. It rested, therefore, with the Government of the United States to do it. Mr. B. read the clause of the constitution touching this matter, and concluded by reminding the House that this was not an ultimate decision, but merely a reference.

Mr. JOSIAH PARKER said he was always inclined to lend a favorable ear to petitioners of every kind, but when a memorial was presented to the House contrary to the nature of the government, he should consent to its lying on the table or under it. No one, he said, could say they had a right to legislate respecting the proceedings of any individual State; they, therefore, had no power to decide on the conduct of the citizens of North Carolina in the matter complained of. Petitions had frequently come from Quakers and others on the subject; whereas this Government had nothing to do with negro slavery, except that they might lay a tax upon the importation of slaves. He recollected, when the subject was brought before the House in the first Congress held at New York, wishing to put a stop to the slave trade as much as possible, being a friend of liberty, he took every step in his power, and brought forward a proposition for laying a tax of ten dollars upon every slave imported. It was not agreed to; but there was only one State (Georgia) in which the importation of slaves was admitted. Since the establishment of this Government, Mr. P. said, the situation of slaves was much ameliorated, and any interference now might have the effect to make their masters more severe. He knew of no part of the constitution which gave them power over horse-racing and cock-fighting, nor could they interfere with respect to play-houses; and where they had no right to legislate, they had no right to speak at all. As the session had begun harmoniously, he hoped that harmony would not be broken in upon by such applications as the present. Mr. P. produced a precedent from the journals of 1792, where a memorial of Warner Mifflin, a Quaker, after being read, was ordered to lie on the table, and two days afterwards returned to the memorialist.

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Mr. NICHOLAS felt as much as other gentlemen from the Southern States on the subject of the present petition, but his feelings did not produce the same effect. He was not afraid of an interference from the United States with their property, nor of any investigations or discussions respecting it. He believed it would be to the honor of people holding property in slaves, that the business should be looked into. He thought such an inquiry would rather secure than injure their property. He did not think it was the interest of slaveholders to cover improper practices. He was satisfied, that in the part of the country where he lived, there was no disposition to protect injuries—no disposition to reject an inquiry, or to refuse to understand a complaint. They had been told that the state of the negroes, whose cases were mentioned in the memorial, might be produced by the fugitive law; they had before heard that this law had operated mischievously. It ought, therefore, to be inquired into. On inquiry, Mr. N. said, it would not be found the fault of the Southern States that slavery was tolerated, but their misfortune; but to liberate their slaves at once, would be to act like madmen; it would be to injure all parts of the United States as well as those who possess slaves. It was their duty, however, to remedy evils; they were unfortunately placed in a situation which obliged them to hold slaves, but they did not wish to extend the mischief. He should, indeed, be sorry if his possessing property of this kind, obliged him to cover the violation of another man's right; if this were the case, he should think it necessary that his property should be taken from him. He did not think it necessary, and he doubted not, if a fair investigation took place, that this kind of property would be brought into the situation in which every man of sense would place it. He was firmly of an opinion, that to appear to be afraid of an inquiry would do more harm to this property than a fair investigation. He trusted, therefore, the petition would be committed.

Mr. BLOUNT hoped this memorial would not be committed. As this was not the first time the society of Quakers had come forward with petitions to the House, seemingly with no other view than to fix an odium on the State of North Carolina, he thought it his duty positively to contradict a fact stated in this memorial. It was stated that 134 persons, set free from slavery in North Carolina, had been since enslaved by cruel retrospective, or *ex post facto* laws; they alleged that certain members of their society had done what no person was permitted to do. Mr. B. read part

of a law of North Carolina, stating "that no negro or mulatto slave shall be set free, except for meritorious services, acknowledged by a license of the court; and when any person shall be set free contrary to this law, he may be seized and sold as a slave," &c. He also read a clause from another law, passed afterwards, stating that several persons having set at liberty their slaves contrary to law, and persons having taken up and sold them, are doubtful of the validity of the sale, and that this law is passed to do away all doubts of such validity. Mr. B. said these extracts proved the assertion untrue.

Mr. GORDON lamented that this discussion had taken place, as it was certain that wherever interest is concerned, some degree of warmth will be produced; and when a petition was brought forward which might affect the property of many gentlemen in this House, and their constituents, it could not be expected they would hear it with the same calmness with persons wholly unconcerned about it. All that had been advanced in favor of the second reading of the petition was, the respectability of the persons presenting it, the opinion that would be entertained of the petitioners, if their petition was not referred, and the merits of the petition itself.

With respect to the persons of the petitioners, he felt inclined to do them every justice; but he did not think this any reason for acting upon their memorial, unless some good consequence could arise from it, any more than if they were the vilest persons on earth. As to the opinion that might be entertained out of doors, as the petition was not examined, he was not afraid that the citizens of the United States would believe that the House could be so far lost to its duty as not to look into a question of this kind, but that it would be conceived, if rejected, that they had nothing to do with it. The other reason, the only material one, was to the merits of the petition. The gentleman from Delaware, (Mr. BAYARD,) who had examined the business with much coolness and ability, had stated that a certain *ex post facto* law of North Carolina had occasioned grievances. Admitting there was such a law, what could the House do? Could they declare a law of North Carolina null and void? There would be no utility in this; but if there was a law in North Carolina that violated the constitution, there was a clear remedy in the law which organizes the Judicial department of the United States, in which it is said, if any law of an individual State interferes with a law of the United States, a person has a right to take advantage of the law of the United States. There was no necessity, therefore, to call upon Congress for a remedy against this law. Indeed, he saw nothing in this memorial which called for their interference, and he was therefore against a reference, as a further discussion of it would only produce uneasiness in certain parts of the United States, without producing any good.

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Mr. RUTLEDGE observed, that notwithstanding all that had been said, considering the present extraordinary state of the West India Islands and of Europe, he should insist that "sufficient for the day is the evil thereof," and that they ought to shut their doors against any thing which had a tendency to produce the like confusion in this country. If this were not done, the confidence of a great part of the Union in the General Government would be weakened. In the Southern States, where most of their property consisted of slaves, and where the rest was of no value without them, there was already a prejudice existing that the Northern and Eastern States were inimical to this kind of property, though they were bound by the constitution from an interference with it; but when they heard of the House giving countenance to a petition like the present, it would increase their uneasiness. He referred to what had fallen from the gentleman from Delaware respecting *ex post facto* law, and thought a court of justice the proper tribunal to settle that business. Mr. R. said he was indisposed, notwithstanding the high panegyrics which had been passed upon the body of Quakers, to withdraw the censures he had cast upon them. The gentleman from New York had doubted the charges which he had produced, and said such things could never be attempted by the body. It was true, they did not come in a body into his lodging to seduce his servant, but individuals did it. But why, he asked, do these men come here in a body? Because they believe that their presence will give more weight to their petition; so that they appeared in bodies, or as individuals, to answer their purposes. Gentlemen had charged the opposers of the petition with heat; he thought there was as much heat on one side as the other.

Mr. EDMOND did not believe there was any real ground of irritation in the question; as no gentleman could suppose they were about to do any thing which was either unconstitutional, or which would affect their property. Whether the persons who presented the memorial are virtuous or vicious, was of no consequence, since justice was due to both classes of men. They had brought a petition before them, and they ought to consider it. It was addressed to their honesty or justice; if the facts were claims upon their honesty or justice they should be attended to; and not only attended to, but, if possible, relief granted. It was stated that there were a number of persons held in bondage who were justly entitled to liberty.

This fact called for examination; and a question arose, if it were established, whether that House could afford redress. A gentleman from North Carolina (Mr. BLOUNT) had stated that the fact was not true; it was certainly, therefore, worth while to be inquired into. Another gentleman had said, if the fact were as stated, they had no power to act; and a third was of opinion that, by the constitution, redress might be afforded. This diversity of opinion showed the necessity of an investigation of the subject, in order to determine the jurisdiction of the House. He wished it for another reason. It had been stated, that if this petition were attended to, it would open a door to faction and mischief. Can it have this effect? These people bring forward a petition stating a number of facts; they certainly do not come forward for the mere design of exciting disorder in any quarter. If the House say they will throw their petition under the table, would not such treatment give the factious some ground of clamor by which to sow dissension? But if, on the contrary, they coolly looked into the petition, and reported thereon, would it not stop the mouths of these people? It certainly would; since they could not then say common justice was refused to

the petitioners. Again; having once investigated the subject fully, if petitions of a similar kind should hereafter come forward, it would be reasonably said, this matter has already been taken up and fully decided upon; and, therefore, we will not again go into it. Until this was done, the factious would doubtless have cause of complaint.

Mr. BLOUNT said, several gentlemen who had spoken on this subject seemed to express themselves as if they believed there was no punishment for individuals reducing to slavery persons who had been manumitted. He read an extract from a law, passed in 1779, in North Carolina, by which the punishment of death is awarded against such an offence.

Mr. MACON read the proceedings of the House on the petition respecting the kidnapping of negroes, in order to show that the gentleman from New York (Mr. LIVINGSTON) had misstated the issue of the business. The last report on the subject was that it would be best to leave the regulation of the subject to the Legislatures of the several States. Mr. M. allowed that his reflections upon the whole body of Quakers were too general, and he had no hesitation in retracting them; but he believed a number of them were guilty of the charges brought against them by the gentleman from South Carolina.

Mr. THATCHER said, if, when the motion was first made, he had been against it, from what had fallen from gentlemen on the subject, he should now be in favor of it; for, notwithstanding they opposed the second reading of the petition, they were filing off in squads to read it, and ready to fight for a sight of it. He believed, therefore, they had some reasons for opposing the second reading, which did not appear. He referred to what had been said by the gentleman from North Carolina, as to the fact stated in the petition, and said that, notwithstanding the laws which he had read, the fact might be true; but that this very doubt about the fact was an additional reason for going into the inquiry.

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Gentlemen had said, however good and virtuous the petitioners might be, it ought to have no effect upon the petition; if this were true, he hoped when they were represented as the worst of men, that representation was not meant to influence their decision on the question. Mr. T. could not conceive for what purpose they were carried to Europe, to witness the scenes which had taken place there for the last ten years. Was this, he asked, the state of society? If he thought so, if it had the faintest resemblance of what was taking place there, he would fly from it to the uttermost parts of the earth, and there make his habitation. Mr. T. wished an inquiry to take place; there was a part of the United States in which slavery was tolerated—some of the members from those parts thought it not right; there were other parts of the Union which disclaimed it. These two opposing principles were like two opposite powers in mechanism, which produced rest; but, the more frequently the subject was looked into, the more mitigated would be its effects.

The question was taken for the second reading of the petition, and carried—53 votes being in the affirmative.

Mr. GALLATIN moved that it be referred to a select committee.

Mr. COIT wished it to be referred to the Committee of the Whole, to whom was referred the petition on the subject of kidnapping negroes, &c.

Mr. RUTLEDGE thought a select committee would be best, as stage-plays, cock-fighting, horse-racing, and other evils, would, of course, be considered.

The question for reference to a select committee was put and carried—59 members being in the affirmative.

Five members being agreed upon to form the committee, the SPEAKER named MESSRS. SITGREAVES, NICHOLAS, DANA, SCHUREMAN, and S. SMITH, for the purpose.

The House adjourned.

### **FRIDAY, December 1.**

A new member, to wit: JOSEPH HEISTER, returned to serve in this House as a member for the State of Pennsylvania, in the room of George Ege, who has resigned his seat, appeared, produced his credentials, and took his seat in the House.

Several other members, to wit: from Pennsylvania, ANDREW GREGG; from Kentucky, THOMAS T. DAVIS; and from North Carolina, NATHAN BRYAN, and DEMPSEY BURGESS, appeared and took their seats in the House.

The Clerk then informed the House that he had heard from a member of the Senate that the SPEAKER was indisposed; so much so that he was not able to communicate his indisposition to the House in writing.

Mr. DENT said, this being the case, he should move that the orders for this day be further postponed till Monday; which motion being agreed to, the Clerk, on motion, adjourned the House till Monday morning, at 11 o'clock.

### **MONDAY, December 4.**

THOMAS SUMTER, from South Carolina, appeared, and took his seat.

Mr. DWIGHT FOSTER presented the petition of Thomas Carpenter, stating that he was the editor of the *American Senator*, published during the session of Congress ending in March last; that, at the commencement of that session, he presented a memorial to the House, praying its support of his work; that the House had declined supporting it as a body, but receiving individual assurances of support from many of the members, he had been induced to engage in the work; but the event had proved unfavorable to him. He hoped now, therefore, that he should be recompensed, by the House engaging to take three copies for each member of the work he proposed to publish this session, (provided he met with the support he prayed for,) which, computing the session at eighteen weeks, he supposed would not amount to more than \$2,250.

Mr. D. FOSTER moved that this petition be referred to a select committee.

Mr. COIT objected to a reference. The House, he said, had so often determined to have nothing to do with the publication of the debates, that he thought it time to have done with the subject. He hoped, therefore, the petition might lie upon the table.

Mr. FOSTER and Mr. THATCHER spoke in favor of the committal; and the motion was put and carried, and a committee of three members appointed to report thereon.

## **THURSDAY, December 7.**

### ***Amy Dardin.***

Mr. T. CLAIBORNE said, that during the last Winter, a report had been made by the Committee of Claims, on the petition of Amy Dardin, unfavorable to the petitioner, which, after full discussion, had been disagreed to by the House; and on the 24th of February a motion for appointing a committee to bring in a bill for her relief was made and committed to a Committee of the Whole, but for want of time had not been acted upon. He now wished to bring the matter before the House, and for that purpose moved that a committee be appointed to bring in a bill for the relief of Amy Dardin.

This motion met with opposition. It will, perhaps, be recollected that this, though a strong claim, in point of justice, is directly in the face of the Limitation Act. MESSRS. MACON, SITGREAVES, and HARPER, wished the matter to go again to the Committee of Claims, as many members now in the House were unacquainted with the merits of the claim; and the latter gentleman, because he thought the House had been surprised into a decision, contrary to fifty other determinations on similar questions, which ought now to be reversed.

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Mr. CLAIBORNE opposed this course, and trusted the House would again be influenced by the justice of the claim, to act as they had heretofore done, by passing a bill for the relief of the petitioner.

Mr. GALLATIN thought it would be best to commit the business to the same Committee of the Whole to which they had yesterday referred a report of the Committee of Claims on the subject of excepting a certain description of claims from the operation of that act.

The business was, however, closed by Mr. CLAIBORNE'S withdrawing his motion for the present.

## **MONDAY, December 11.**

Two other members, to wit: JAMES GILLESPIE and JOSEPH McDOWELL, from the State of North Carolina, appeared and took their seats.

## **TUESDAY, December 12.**

### ***Acts of Limitation.***

Mr. GALLATIN called for the order of the day on the report of the Committee of Claims, to whom it was referred to inquire into and report on the expediency or in expediency of designating certain claims against the United States to be excepted from the operation of the acts of limitation; which being agreed to, the House accordingly resolved itself into a Committee of the Whole on the subject, Mr. DENT in the chair. The report was read, as follows:

The Committee of Claims who were "instructed to inquire into, and report on, the expediency or in expediency of designating certain claims against the United States, to be excepted from the operation of the acts of limitation," report:

That, in obedience to the orders of the House, they have made all the inquiries which to them appear necessary; that they have attentively and deliberately considered the subject referred to them; and are of opinion that it would not be expedient to designate any species of claims against the United States which are now affected by the acts of limitation, to be excepted from the operation of those acts.

In considering this subject, a review of the situation of the United States, as respected their finances, during the period when most of the demands originated, was requisite. It was also necessary to ascertain what measures had been adopted by Congress, both under the old and under the present government, to bring all the demands against the States to a liquidation and settlement.

It will be recollected, that, at the commencement of the war, the United States were destitute of money; and during a long period of years afterwards, were obliged to rely principally on credit, for carrying on all their important operations.

Having, at that time, no settled National Government, a regular system for conducting public business, especially money transactions, depending on credit, was not to be expected.

Great numbers of individuals were necessarily invested with the power of binding the public by their contracts. Almost every officer of the Army, whether in the Commissary's Department or otherwise, in different stages of the war, had it in his power to contract debts legally or equitably binding upon the United States. We find Congress, at various times, during the war, endeavoring to make arrangements which should prevent an undue use of the powers vested in individuals, and the dangerous consequences to which the Government was thereby necessarily exposed. The acts of the 5th of March, 1779, and of the 23d of August, 1780, were calculated to limit the public responsibility in such cases. After the peace, and under the old Government, periods were prescribed, within which claims of certain descriptions, and finally all unliquidated claims, were to be exhibited for settlement, or to be for ever thereafter barred.

It must be acknowledged by all, that during those periods every provision which could rationally have been expected was made for the accommodation of individuals having claims against the public, to enable them to obtain proper settlements of their demands. The journals of Congress under the confederation will abundantly justify this remark.

Commissioners were appointed, with special or general powers, to settle the claims of individuals in all the departments; and, in every instance, the powers given were plenary and explicit. Sufficient time was given for every one to obtain information and pursue his remedy; and ample opportunity was given for all to substantiate their claims, or, at least, to present abstracts of them, which would have prevented their being foreclosed by the acts designed eventually to operate upon them. The cases cannot be numerous, in which the want of opportunity to bring forward claims can be justly pleaded as an excuse for the omission.

By the act of the 17th of March, 1785, all persons having unliquidated claims against the United States were required, within twelve months, to exhibit particular abstracts of such claims, to some of the Commissioners in the State in which they respectively resided, who were sent and empowered to settle accounts against the United States, under the penalty or condition that accounts not so presented, should be thereafter settled only at the Treasury.

By another act of Congress, of the same year, viz: November 2d, 1785, all persons having claims for services performed in the military department, were directed to exhibit the same for liquidation to the Commissioners of Army accounts, on or before the first day of August, then ensuing. By that act it was expressly resolved, that all claims, under the description above mentioned, which might be exhibited after that period, should be for ever thereafter precluded from adjustment and allowance.

And it was provided, by the act of July 23d, 1787, that all persons having unliquidated claims against the United States, pertaining to the late Commissaries', Quartermaster's, Hospital, Clothier's, or Marine department, should exhibit particular abstracts of such claims to the proper Commissioner appointed to settle the accounts of those departments, within eight months from the date of the said act; and all persons having other unliquidated claims against the United States, were to exhibit particular abstracts thereof to the Comptroller of the Treasury of the United States, within one year from the date thereof; and all accounts not exhibited as aforesaid, were to be precluded from settlement or allowance.

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These regulations were adopted by Congress under the old Government. Great care was taken to have them extensively published, so that every individual who was interested might be informed of their existence and operation.

Under the present constitution there has not been wanting a disposition to relieve certain individuals whose claims were considered as peculiarly meritorious, which had been affected by the acts above recorded.

With this view, in March, 1792, two several acts of Congress were passed, suspending for two years the operation of the resolutions of Congress of November 2d, 1785, and July 27th, 1787, so far as they had barred or might be construed to bar the claims of the widow or orphans of any officer of the late army, to the seven years' half pay of such officer; or the claims of any officer, soldier, artificer, sailor, and marine, of the Army of the United States, for personal services rendered to the United States in the military or naval departments.

In consequence of these suspensions, many claims were exhibited, and allowed against the Government. There is reason to apprehend, in some instances, the public were defrauded for want of proper pre-existing checks and evidences of



payments being made. This suspension continued for the term of two years, which was till March, 1794. In the mean time, viz: on the 12th of February, 1793, the act "relative to claims against the United States, not barred by any act of limitation, and which had not been already adjusted," was passed by Congress, after a serious and attentive consideration of the subject.

By that law it was provided, "that all claims upon the United States for services or supplies, or for other cause, matter, or thing, furnished or done, previous to the 4th day of March, 1789, whether founded upon certificates, written documents from public officers, or otherwise, which had not already been barred by any act of limitation, and which should not be presented at the Treasury before the first day of May, 1794, should for ever after be barred and precluded from settlement or allowance." But this was not to be construed as affecting Loan Office certificates, certificates of final settlements, indents of interest, balances entered on the books of the Register of the Treasury, registered certificates, foreign loans, or certificates issued under the act making provision for the public debt of the United States.

One other act, passed the 3d day of March, 1795, provided that Loan Office certificates, final settlements, and indents of interest, then outstanding, should be presented at the office of the Auditor of the Treasury, on or before the first day of January, in the present year, 1797, or be for ever after barred or precluded from settlement or allowance.

The summary contains a general view of the principal acts of limitation, by which claims against the public have been affected.

From an attentive consideration of them, and of the circumstances under which they were enacted, the committee are fully impressed with an opinion that it would not be expedient to suspend their operation.

Some remarks extracted from a report heretofore made to Congress, are subjoined by the committee, as pertinent to the subject.

It was essential to the public administration that the extent of just demands upon the Government should be, within a reasonable period, definitely ascertained. It was essential to public safety and to right, in relation to the whole community, that all unsettled claims should be made known within a time when there were yet means of proper investigation, and after which the public responsibility should terminate, and the possibility of charging the Government by collusive and fictitious contracts, should be at an end.

The justice as well as policy of acts of limitation, under such circumstances, cannot be doubted.<sup>[27]</sup>

The situation of no country ever presented a more clear necessity for, or a more competent justification of, precautions of that nature. And all the reasons for adopting them operate to recommend unusual caution in departing from them, with the additional force of this circumstance, that the subsequent lapse of time has increased the difficulties of a due examination.

The accounts of a considerable number of officers, who had it in their power to bind the public by their contracts, and who were intrusted with large sums of money for fulfilling their engagements, remain unsettled. Some of those persons are dead; others have absconded; the business has been conducted by others with so little order as to put it out of their power to render a proper statement of their transactions. The books and papers of others, who had extensive trusts, have been destroyed, so as to preclude the possibility of settlement. Hence it must appear that the Government would, in a great number of cases, be destitute of the means of repelling unfounded and even satisfied claims, for want of documents and vouchers, which only could have resulted from a due settlement with those officers, and from the possession of their books and papers.

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It might be inferred without proof, and it has appeared in the course of business at the Treasury, that it was a practice with certain public officers, on obtaining supplies, to give receipts and certificates for them, and when they made payments, either partially or totally, to take distinct receipts from the parties, without either endorsing the payment upon the original vouchers or requiring a surrender of them.

Hence it would often happen that parties could produce satisfactory vouchers of their having performed services and furnished supplies, for which, though satisfaction may have been made, the evidences of it would not be in the possession of the Government. And hence, from relaxations of the limitation acts, there would be great danger that much more injustice would be done to the United States than justice to individuals.

The principles of self-defence, therefore, require and justify an adherence to those acts generally; and there are not any particular species of claims, which, in view of the committee, ought to be exempted from their operation.

Those which have been most frequently referred to by some members of the

House, are such claims as include the arrearages of pay and other emoluments to officers and soldiers of the late army, &c.

Pursuant to an order of the House at the first session of the present Congress, a report was made to them, having special reference to this subject. It was considered in Committee of the Whole, and agreed to by the House on the fifth day of February, 1796. To that report and the documents accompanying the same, the committee ask leave to refer the House, and respectfully submit the whole subject to their consideration.

### **WEDNESDAY, December 13.**

JOHN WILKES KITTERA, from Pennsylvania, appeared, and took his seat in the House.

### **FRIDAY, December 15.**

A new member, to wit, PELEG SPRAGUE, from New Hampshire, in place of Jeremiah Smith, resigned, appeared, produced his credentials, was qualified, and took his seat.

### **THURSDAY, December 24.**

#### ***Amy Dardin.***

Mr. T. CLAIBORNE moved that the report of the Committee of Claims, on the petition of Amy Dardin, be referred to a Committee of the Whole.

The SPEAKER said, that the report having been negatived at a former session, and a bill brought in for her relief, but not decided upon, the proper motion would be to appoint a committee to bring in a bill.

Mr. CLAIBORNE made that motion, which Mr. COIT moved to be referred to the Committee of Claims, in order that they might report the facts relative to the case, which were not generally known.

Mr. CLAIBORNE objected to this; and

Mr. BALDWIN suggesting the propriety of committing it to the same Committee of the Whole, to whom were referred the subject of considering the expediency of excepting certain claims from the operation of the limitation acts, this course was adopted.

### **FRIDAY, December 22.**

#### ***General Kosciusko.***

Mr. DAWSON wished to call the attention of the House to a subject, which, he doubted not, would interest the feelings of every member. The subject he alluded to was the situation of General Kosciusko. It was a fact well known to every man in this country, it was a fact known to the world, that this brave man entered into the service of the United States, at an early period of our Revolutionary war. When this service was ended, he received from the Government a certificate of what was due to him. He returned to Poland, his native country; there, animated by the same spirit which had led him to take a part in our struggle for independence, he endeavored to overthrow the existing tyranny, and to introduce in its place liberty and independence. For some time his attempt seemed likely to be crowned with success; but, on the fatal 10th of October, 1794, overpowered by numbers, he was defeated and taken prisoner. Covered with wounds and with glory, he was conducted to the prison of Petersburg. When he was released from thence, he immediately set out to this country, here to spend the remainder of his life. He was now within this city; but, from the wounds he had received in his arduous but unsuccessful conflict, he was unable to walk or to attend to any business. The unfortunate day on which he was taken prisoner, he lost his all, and with it the certificate of the services rendered to the United States. He was unable, therefore, to obtain a settlement of his account at the Treasury. To set aside all difficulty in the matter, Mr. D. proposed to offer a resolution to the consideration of the House; and as it was justice only which he sought for this brave man, he doubted not that a spirit of justice would ensure its adoption. It was to the following effect:

"*Resolved*, That a committee be appointed to inquire and report whether any, and, if any, what provisions are necessary, to obtain payment of the claim of Gen. Kosciusko on the United States."

Mr. J. PARKER seconded the motion. He hoped the resolution would be agreed to, and that immediate attention would be paid to the unfortunate gentleman, as he believed, except he made use of the grant made to him by the Emperor of Russia, which, he believed, he was disinclined to do, for considering his predecessor as the chief cause of his own misfortunes, and those of his country, he did not wish to be under obligations to him. The certificate given to the General on his departure from hence, was for \$12,800, upon which he had received only one year's interest. He hoped, therefore, as he had the misfortune to lose his certificate, at the time he was taken prisoner, that the House would take such measures as should enable him to receive the amount of his certificate, with the interest due thereon.

Mr. COIT moved that the resolution should be committed to the Committee of Claims, but afterwards changed his motion so as to make that committee the committee to inquire and report, instead of a select committee. He professed to have no other object in these motions than that this claim should take the same course with other claims.

The motion was supported by Messrs. ALLEN, J. WILLIAMS, MACON, and EDMOND. It was opposed by Messrs. J. PARKER, LIVINGSTON, GALLATIN, BROOKS, NICHOLAS, HARPER, SHEPERD, OTIS, PINCKNEY, SWANWICK, S. SMITH, T. CLAIBORNE, and McDOWELL.

The motion for a reference to the Committee of Claims was lost—59 to 33.

Mr. PINCKNEY said, that as this claim was different from most others which came before that House, and having himself had something to do in the business, he would state to the House what he knew of it. Previous to General Kosciusko's return to Poland, whilst he was in Germany, he applied to the Polish Ambassador in London, by letter, requesting him to make application to the American Minister there for payment of a part of the money due to him from the United States. The mode of transacting this business was this: The interest arising from the certificate granted to the General, was made payable in Paris; but from the change which took place in the French Government, the General did not know how to receive it there, which was the reason of his making application, through the Polish Minister, to him (Mr. P.) in London. Mr. P. wrote to the American Minister in Paris for an order on the bankers of the United States in Holland, but having in the mean time received a letter from Gen. Kosciusko, requesting the money to be sent for him to Ratisbon or Leipsic, he (Mr. P.) sent an order to Amsterdam, requesting the bankers there to transmit the money either to Ratisbon or Leipsic, as the exchange should be most advantageous. In the interim General Kosciusko returned to Poland, and he supposed he then had no time to attend to this business. He never heard any more upon the subject until he saw the General in Philadelphia, when he found this money had not been received by him; so that he supposed it yet lay in the hands of the Leipsic or Ratisbon banker.

Finding this to be the case, Mr. P. immediately wrote to the banker at Amsterdam, requesting him to redraw the money, and to transmit it here for the General's use. But, as he might, in the mean time, stand in need of it, it might be proper in the United States to anticipate its return, by settling the account with the General. He hoped in whatever way this business was effected, it would be in such a way as not to wound the feelings of a man who had deserved so well of this country.

On a suggestion of Mr. SITGREAVES, instead of appointing a committee, the Secretary of the Treasury was directed to make a report what "Legislative provision was necessary, &c."

This motion was carried by 49 to 40; but whatever difference of opinion there was in the House, as to the mode of doing the business, there seemed to be but one sentiment, as to the propriety of complying with the spirit of the resolution.

### **WEDNESDAY, December 27.**

SAMUEL JORDAN CABELL, from the State of Virginia, appeared, and took his seat.

#### ***Count de Grasse.***

Mr. LIVINGSTON, from the committee to whom was referred the petition of the daughters of the late Count de Grasse, made a report, which stated that the sum heretofore allowed by Congress was intended only as a temporary provision, until the events of the war should permit them to take possession of an estate in St. Domingo; that the facts formerly stated showed that the most important services were rendered to the United States by their father, from motives the most honorable, under the greatest responsibility, and at a risk the most hazardous that could be encountered by an officer of rank and reputation; that, with a recollection of these services, it would consist neither with the honor nor justice of the United States to refuse an adequate provision for the orphan children of the man who rendered them. The committee, therefore, recommended that a certain sum should be granted to each of them, annually, for their lives. The report was twice read, and committed for Monday.

### **THURSDAY, December 28.**

#### ***Gen. Kosciusko.***

The SPEAKER laid before the House a letter and report from the Secretary of the Treasury, in pursuance of a resolution of the House, of the 23d instant, relative to the claim of General Kosciusko. The report states, that the accounts of the General were settled at the Treasury in 1784, when a certificate was issued to him for \$12,280 49, bearing an interest of six per cent. from the 1st of January, 1784, which was stipulated by a resolution in February following, in common with the interest due to all the foreign officers, to be paid annually at Paris; that in May, 1792, moneys were granted by Congress to discharge the principal and interest of these debts, at which time it was supposed that all the officers had received their interest to the 1st of January, 1789; but it now appears by the banker's account at Paris, that no interest had been received by General Kosciusko for four years, viz.: from 1785 to 1788. Sufficient funds to pay the interest from 1789 to 1792, were, in 1792, placed in Amsterdam, subject to the disposal of our Minister at Paris; that by his direction a bill for the amount was remitted to Mr. Pinckney in London; but,

pursuant to the direction of General Kosciusko, Mr. Pinckney wrote to the banker at Amsterdam to remit the amount to Leipsic or Dresden. That in September, 1792, a notification was published, that provision had been made for paying the principal of the debt due to foreign officers, on application at the Treasury, after the 15th of October following, and that the interest upon their demands would cease after the last day of December in that year. That though the certificate issued to the General is stated by him to have been lost or destroyed, yet the powers of the officers of the Treasury are competent to the payment of \$12,280 54, the principal, and \$2,947 33 interest, for the years from 1785 to 1788, on receiving a bond of indemnification from the General: but that they cannot advance the interest supposed to have been remitted to Leipsic or Dresden, though payment will be immediately made for any sum which may be hereafter redrawn, and credited to the United States at Amsterdam; nor is it in the power of the Treasury to allow any interest on said principal since the 1st January, 1793.

On motion of Mr. DAWSON, this report was referred to a Committee of the Whole for Monday.

## **TUESDAY, January 2.**

JOHN FOWLER, from the State of Kentucky, appeared and took his seat.

### ***General Kosciusko.***

Mr. DAWSON moved the order of the day on the report of the Secretary of the Treasury on the claim of Gen. Kosciusko; which motion being acceded to, the House resolved itself into a Committee of the Whole, Mr. KITTEBA in the chair, and the report having been read,

Mr. DAWSON said, when he had the honor of presenting this business to the House, he hoped the proposition he then submitted would have been agreed to in that way, which, in his opinion, would have been most honorable to the United States, and most agreeable to the person concerned. In this hope he had been disappointed; but, though they differed as to the mode of doing the business, there was but one opinion as to the business itself. He had now a resolution to submit to the consideration of the House, which he trusted would meet with no opposition. It would be found, by the report of the Secretary of the Treasury, that the accounting officers were ready to pay to General Kosciusko \$12,280 principal, and \$2,947 interest, from 1785 to 1788. To recover those two sums, therefore, there would have been no occasion for application to that House. It also states, that a bill had been remitted to our Minister at London, for the interest from 1789 to 1792, but which money was afterwards, by direction of the General, ordered to be remitted to Leipsic or Dresden; but it did not appear that this order had been complied with. It was clear, however, it was never received by him, nor had he given any person a right to receive it. He hoped, therefore, as the money lay at Amsterdam, Leipsic or Dresden, and could at any time be got by the United States, there would be no objection to pay the General that sum at this time. It was further stated in the report, that in September, 1792, a notification was published, informing all the foreign officers that provision was made at the Treasury for the payment of the principal of their debts, and that the interest thereon would therefore cease after the last day of December in that year. Upon examination he did not find that this arrangement was founded upon any law; it was, therefore, a regulation agreed upon by the Treasury Department, and ought not to operate to the injury of persons who were ignorant of it. It was well known, that, from the peculiar situation of General Kosciusko at the time, that he could not hear of it; and the truth was, he never did hear of it until he arrived in this city. He hoped, therefore, there would be no objection to the payment of the amount of the certificates, with interest to the present time. To effect this purpose, he proposed the following resolution:

*"Resolved,* That it is the opinion of this committee, that the Secretary of the Treasury be authorized and directed to pay to General Kosciusko, the interest of six per cent. per annum, on \$12,280 54, the amount of the certificate received by him from the United States, and now lost, from the 1st of January, 1789, to the 31st day of December, 1797."

This resolution was opposed by MESSRS. MACON, COIT, and J. WILLIAMS. They were opposed to interest being paid up to the present time, and wished, if any provision were made for paying interest beyond the time fixed by the notification of the Treasury, that the regulation should be a general one, and extend to all other foreign officers. They were also against paying the interest, which had been transmitted to Paris for General Kosciusko's use, and which, by his direction, was afterwards remitted to Leipsic or Dresden, as it most probably lay there, and would be paid to his order without their interference.

The motion was advocated by MESSRS. VENABLE, PINCKNEY, J. PARKER, HARPER, GALLATIN, and T. CLAIBORNE, and was finally agreed to without a division.

## **WEDNESDAY, January 3.**

### ***Duties on Distilled Spirits.***

#### **PEACH BRANDY.**

Mr. HARPER moved the order of the day on the bill to amend the several acts for laying a duty on spirits distilled within the United States, and on stills; which motion being agreed to, the House

resolved itself into a Committee of the Whole on the subject, Mr. KITTEA in the chair. The bill having been read,

Mr. MACON said, that the report of the Committee of Ways and Means, on the proposition for allowing distillers to take licenses for a week, having been referred to that committee, if it were taken up at all, this was the proper time. He should, therefore, propose an additional section to the bill, to embrace this objection.

Mr. M. accordingly presented a section to allow of weekly licenses.

This motion produced a considerable debate. It was opposed by MESSRS. SEWALL, GRISWOLD, GALLATIN, GORDON, and BROOKS, on the ground that the duty now paid upon spirits distilled from fruit (which description of distillers the regulation was avowedly intended to accommodate) was not equal to that paid by distillers of grain, as the duty on spirits distilled from fruit was not more than two and a half cents per gallon, whilst that on spirits distilled from grain paid seven cents; and if the amendments were agreed to, this inequality would be increased—for persons who took a license for a week, by preparing their materials beforehand, and working night and day, would finish their business within that time, which otherwise would have required a fortnight; by which means the duty would be reduced from six cents per gallon, on the capacity of their stills, to four; that it would increase the temptation to fraud, as that temptation was strong, or the contrary, in proportion to the length of time for which a license was taken; as a person taking a license for a fortnight, by working his still one day past the time specified in his license would gain half a cent a gallon on the capacity of his still, whilst he who took out a license for six months would only gain half that sum. If licenses for a week were allowed, the temptation would therefore be increased; that such a regulation would greatly augment the duties of excise officers, without rendering any material advantages to individuals—since, if the owner of a still of fifty gallons took out a license for a fortnight, when a week might have served, he would only pay a dollar more than he would have paid for a week; that when this scale of duties was made, reference was had to the situation of persons who would be obliged to take out a license for a fortnight, though they might not have fruit to employ a still more than a few days, and a rate proportionably low adopted; that the same reasons which were urged for allowing licenses for a week might be urged for allowing one for two days; that, though there might be some inconveniences experienced by the distillers of fruit, (as it was not doubted there might be in other parts of the law,) yet, as it was only just got into operation, it would not be right to enter into the proposed regulation, but defer it to the period when it would most probably be necessary to go into a review of the whole law.

The motion was supported by MESSRS. MACON, HARRISON, HARPER, J. PARKER, NICHOLAS, VENABLE, R. WILLIAMS, NEW, DENNIS, T. CLAIBORNE, and CLAY. It was asserted that the law as it now stood excluded four out of five of the owners of orchards, in the Southern States, from distilling their early fruit at all; that their peaches ripened hastily, and as hastily rotted, if not made use of. Persons who had only fruit to employ their stills for three or four days, sooner than take a license for a fortnight, suffered their fruit to rot; and to allow licenses for a week would produce a considerable augmentation of the revenue, since those persons only would take such a license, who, if that privilege were not allowed, would not take out a license at all, or such as had occasion to distil a few days longer after their two weeks' license was expired. It was unjust to require a man, who had only a small orchard, and occasion to use a still but a few days, to pay a much higher duty upon his brandy than his more opulent neighbor. It was not so inconsiderable an object as gentlemen supposed, since it had not reference to one license only—farmers in the Southern States having occasion to take out separate licenses for their early, their middle, and their latter fruits; and this regulation would not open a door to fraud, as was supposed. It was an undeserved imputation upon the characters of persons concerned in this business, to suppose they could be tempted to defraud the revenue for the sake of half a cent per gallon upon what they could distil in a day. The penalties consequent upon fraud, if the virtue of the persons concerned could not be relied upon, were sufficient to guard against them; and, if they were not, it could not be expected, as some gentlemen seemed to suppose, that the excise officers should overlook the conduct of every distiller. If they were to be so inspected and scourged, an attempt to defraud the revenue could scarcely be blamed; and, except it were the intention of gentlemen to crush this domestic manufacture, no reasonable objection could be urged against the proposition. The objections which had been urged proved the ignorance of gentlemen in respect to this branch of business; for though the excise officers would have some trouble in issuing licenses, it was believed they would be well satisfied to encounter it, since their profits were in proportion to the quantity of spirits distilled; and though this law had been but a short time in being, the last season, having been a scarce fruit season, had given a good opportunity of trying it. As the application for this amendment was seconded by the whole of the Southern country, it was entitled to respect, and ought not to be branded with being a fraudulent design upon the revenue.

In the course of the debate, Mr. GALLATIN called upon gentlemen acquainted with the subject, to say what was the quantity of spirits which could be distilled from peaches in a week by a still of the capacity of thirty, forty or fifty gallons, with a view to show that this species of spirits paid less at present than spirits distilled from grain.

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Mr. CLAY answered this inquiry, by saying, that a still of fifty gallons would distil from five to seven gallons of brandy a day. If the weather was wet, and the peaches rotted quickly, not more than five; but when the weather was dry, and the peaches sound, seven gallons might be produced.

The question on the amendment was at length put and carried—45 to 37.

Mr. DENNIS said, he wished to try another principle in this bill. The law at present required an annual entry of stills, whether they were used or not, which occasioned persons frequently to ride twenty or thirty miles to make the entry, when they had no intention to make use of their still; and not unfrequently, from not meeting with the officers at home, this journey was taken two or three times over. Indeed, he believed, more penalties had been incurred on account of this regulation than any other, and he looked upon it as a useless regulation. When a still was once entered, he thought it was sufficient, and no future entry ought to be required, except when a still was about to be made use of, or when it was transferred into other hands. Mr. D. proposed a section to this effect; but after some objections to the introduction of so important a provision into this bill, (which before it could be decided upon would require considerable discussion,) by MESSRS. HARTLEY, GALLATIN, and HARPER, he agreed to withdraw it for the present.

It having been agreed to fill the blank of the sum per gallon to be paid on the capacity of a still, when a license was taken for a week, with *four cents*, the committee rose; the House took up the amendments, agreed to them, and the bill was ordered to be engrossed for a third reading tomorrow.

## FRIDAY, January 5.

### *Count de Grasse.*

Mr. LIVINGSTON called for the order of the day on the bill for granting an annuity to the daughters of the late Count de Grasse; which being agreed to, the House resolved itself into a Committee of the Whole on the subject, Mr. DENT in the chair; and, after a number of desultory observations, the blanks were filled up, viz: the time for which the annuities should continue was fixed at five years, and the sum per annum to be allowed at \$500 each. The first question was determined by a considerable majority, there being 57 votes in favor of it; the latter was carried—46 to 38.

The committee then rose and reported the amendments. They were all agreed to without a division, except the sum to be allowed per annum. When that question was put,

Mr. J. WILLIAMS hoped it would not be agreed to. When the subject was before under discussion, the question on \$500 and \$400 had been negatived. \$500 a year for the four daughters for five years, he said, would be \$10,000. He thought this a very serious sum. He again adverted to the situation of many of our own citizens, and called for the yeas and nays upon the question.

Mr. HARPER asked whether, if, when the Count de Grasse was solicited to remain with the fleet under his command in the Chesapeake, at his own risk and responsibility, he had asked as a condition that on some future day \$10,000 should be granted to his daughters, would it not have been complied with, if it had been ten times that sum? And ought his descendants to be more hardly dealt with because their father had the generosity and magnanimity not to make the demand? He trusted not.<sup>[28]</sup>

After some observations in favor of concurring with the Committee of the Whole in their vote, by MESSRS. THATCHER, BROOKS, LIVINGSTON, and GORDON; and against it by MESSRS. VARNUM, McDOWELL, and MACON—the former of whom said that the clergy, in his part of the country, had not more than three hundred and thirty dollars a year; and the latter gentleman produced three cases of our own citizens who had lost their lives in the service of the United States, whose families had been much more hardly dealt with, viz: the family of a Lieutenant Colonel, who had four hundred and fifty dollars a year granted them; that of a Major, three hundred dollars a year; and that of the Marshal of Georgia, whose family had a grant of two thousand dollars. The yeas and nays were taken—40 to 43.

The question for allowing five hundred dollars a year being negatived, four hundred was proposed and carried—46 to 34.

The question being on the bill being engrossed for a third reading, Mr. BLOUNT called for the yeas and nays upon it. It was carried—55 to 25.

## MONDAY, January 15.

LEMUEL BENTON, from the State of South Carolina, appeared, and took his seat.

### *Expenditure for Naval Service.*

Mr. LIVINGSTON called up for consideration and decision the resolution which he had laid upon the table a few days ago, for the appointment of a committee of inquiry into the expenditure of money which had been appropriated for the naval service.

The House having agreed to take up this business—

Mr. HARPER said, he believed that the appointment of such a committee was very unusual, without having some ground stated to the House for the proceeding. A vote of this kind would imply a censure upon the conduct of our public officers, which certainly ought not to be done hastily, or without first having, at least, some ground of suspicion laid before them upon which to act. The House had not yet received the statements which had been called for relative to this business; they were directed to be laid before the House in the last week in January, and might, therefore, be soon expected.

[Several gentlemen said it was the first, and not the last week in January, in which the accounts had been ordered to be laid before the House.]

Mr. H. said the delay, he supposed, had been occasioned by the officers having been obliged to remove from the city during the fever. He had, however, been informed that these statements would be ready in a few days. And would it not be extraordinary, he asked, if, before they received these statements, they were to appoint a committee of inquiry? He thought it would. He believed the officers of this department of Government were very desirous of the inquiry taking place; but this was not a sufficient reason for the House to proceed in the business without having first some ground to suppose the money had been misapplied, and this he believed could not be ascertained until the expected statements were before the House. When these were looked into, it was possible the House might be satisfied with respect to the expenditure of the money, and it would, therefore, be improper to appoint a committee to inquire into a matter which might so shortly appear satisfactory. If, on the other hand, these accounts should not be satisfactory, he would readily concur in the appointment of a committee of inquiry.

Mr. J. WILLIAMS said, the gentleman from South Carolina ought to recollect that the inquiry was produced by a further appropriation being called for. It might be best to defer the inquiry until the accounts which had been called for were laid before the House; and he should have been satisfied with the business taking that course, if a further appropriation had not been called for in the mean time. But when they are called upon to appropriate a further sum of money for any object, it was natural to inquire what was become of that already voted; and the only way of doing this was to appoint a committee who would look into all the different statements which had from time to time been laid before the House, and those which might shortly be communicated, and state their opinion thereon to the House. He thought those gentlemen who were most friendly to the frigates ought not to oppose the appointment of a committee; because, if it should appear that the money had been justly expended, there would be little objection to a further appropriation.

Mr. LIVINGSTON said, from the full discussion of this subject, which, though incidentally produced, had taken place on a former occasion, he did not think it would either have been becoming or necessary to have again stated the reasons which gave rise to this resolution, especially as he felt an aversion to say any thing which might be unnecessary, or which might tire those who heard him. Mr. L. said, that he had before observed that the patience of the House had been worn out by the repeated applications which had been made for money for this object; that the expense had exceeded all belief; that the most extended imagination could not have conceived an amount like that which Congress had from time to time been blindly led to appropriate. But the proposition was objected to, because it would cast an odium upon our officers. This he was perfectly indifferent about. Whatever might be the private opinion he had of the characters of these officers, however incapable he might believe them of doing wrong, or of acting corruptly, yet, when his duty called upon him to make an inquiry into the expenditure of public money, he was deaf to all considerations of a private nature. But, in this case, he did not see the necessity for this remark. The House had been told (he believed by the gentleman from South Carolina himself) that the extraordinary expense had been occasioned by our inexperience in business of this kind, by the high price of labor, materials, &c. If this were the case, the result of the inquiry would be honorable to those concerned, and highly satisfactory to the House. It was a proceeding which our public officers ought to wish for; nay, gentlemen say they do wish for it.

But, Mr. L. said, it had been alleged, that the statements ordered a year ago to be laid before the House during the first week in this month, should be waited for before any inquiry took place. He would reply, if these officers had not, in the mean time, called upon the House for a fresh supply of money, this inquiry would not have been thought of. Besides, the accounts asked for last year would not give the satisfaction required. The request only extended to all the expenditures previous to the 1st of January, 1797. The House would wish to know what had been expended since, and they had no reason to expect further information than was asked for. Mr. L. said every member who was present at the time must remember that whenever the House had been applied to for further appropriations, they had been told that the frigates would be ready for sea at such and such a time; and that they would then bear our flag triumphantly over the ocean. And yet, though the House had been four or five times deceived by these representations, they were told there was no ground for inquiry. For his part, he should consider himself as neglecting his duty were he not to call for this inquiry immediately; for, if the House were to wait a week for the statements called for, they might wait another for their being printed; they might then be found to be deficient, fresh statements might be necessary, and the session might expire without effecting the wished-for inquiry. He thought all parts of the House ought to favor the inquiry; for, he believed, if it should appear that frigates could not be built for less than \$500,000 a piece, the project of a navy ought to be given up; but if, on the other hand, difficulties and expenses had occurred in the commencement of this business, which would not return, and their frigates may in future be built for half the sum, (which was his opinion,) there would be some encouragement to proceed in the business.

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Mr. SEWALL was sorry that the gentleman from South Carolina (Mr. HARPER) had given the occasion, and that the gentleman last up had so eagerly seized it, to thwart any measures which might be necessary for the general defence, by ridiculing the resources of the country. The present, he said, was a time of danger and apprehension, and thus to talk of the resources of the United States added to the apprehension and the danger. The gentleman from South Carolina had said, that to pass this resolution would be to pass an odium upon our public officers. He did not think so. He thought an inquiry of this kind at all times proper where there was any doubt as



to the expenditure of money. He agreed with the gentleman from New York, that the inquiry (if it had a favorable issue, which he did not doubt) would forward the design of providing a navy; as it would appear that the extraordinary expenses had been such as it would not be necessary to incur in future. He was, therefore, sorry to hear the gentleman from New York first up (Mr. WILLIAMS) say he should be disinclined to vote any further appropriation until he saw how the last had been expended. However improvidently the money already appropriated had been expended, yet, in order to secure what had been voted, and to keep the work in progress, they ought to vote a further sum, as soon as wanted, whether the statements called for were received or not.

Mr. LIVINGSTON desired to know wherein he had attempted to ridicule the resources of this country? The gentleman from Massachusetts must excuse him when he asserted he had never made a more hasty or unfounded charge. If he had either ridiculed the resources, or thwarted any measures for the general defence of the United States, it must have arisen from a weak judgment, and not from any intention of doing so. But he was certain nothing which had fallen from him could be so construed.

Mr. SEWALL acquitted the gentleman from New York of any intention of lowering the appearances of the resources of this country; but he appealed to the House whether he had not spoken of this fleet with a degree of ridicule, when he represented it as governing the ocean. It appeared so to him at least.

Mr. HARPER again insisted upon the impropriety of going into this measure, from reasons similar to those which he had already given.

Mr. GALLATIN said, that the ground taken by the gentleman from South Carolina (Mr. HARPER) would prevent any inquiry whatever; for he stated that the House ought not to pass the present resolution, because certain statements had not been received, and because to pass it would be to imply a censure on our officers. So that on this ground no inquiry could be gone into without statements, as the House could not obtain statements without passing a resolution, that resolution would be construed into a censure, and therefore ought not to be passed. This Mr. G. thought a very improper doctrine. It would never be in the power of the House to decide upon the propriety of statements by barely having them laid upon the table.

## MONDAY, January 15.

### *Naval Expenditure.*

Mr. GALLATIN stated the different estimates which had been made to the House. In 1794, he said, they were told that \$688,000 would be sufficient to build six frigates. In 1796, they were informed there had been a mistake in the matter, but that with \$80,000 more three would be finished. In January, 1797, the House was again called upon for \$172,000; in July, in the same year, for \$200,000, and now for \$150,000 more. Such calculations, he thought, wholly unaccountable.

Mr. NICHOLAS did not understand what the gentleman from Connecticut meant by saying that this was wholly Executive business. He did not believe, because the PRESIDENT had told the House that he was about to hold a treaty, that the money must be granted, and that the House had no choice whether they would appropriate it or not. From what had already been said upon the subject, he doubted not there was a pretty general disposition to grant the money; but it was not proper that the Message should be sent to the Committee of Ways and Means, as if an appropriation was a thing of course; to do this, would be to act at the *command* of the PRESIDENT OF THE UNITED STATES; whereas the House could only act upon the full exercise of its discretion. He therefore moved that the Message be referred to the Committee of the Whole, which had already this subject under consideration.

Mr. GALLATIN believed the gentleman from Connecticut had not considered this subject with his usual correctness. That gentleman had said that the Message before them ought to go to the Committee of Ways and Means, and that an appropriation should follow as a thing of course. It must be known that this was contrary to the practice of that House, or of any former Legislature of the United States. On the contrary, it was usual, first to authorize an expense, and in the next place to appropriate; and in no case had the business been reversed. If the Message were referred to the Committee of Ways and Means, all they could do, would be to bring it back to the House, and ask for an authority for the expense. He believed the gentleman from Connecticut had been led into this mistake by considering the Message announcing the intention of the PRESIDENT to hold a treaty as a treaty made; and had that been the case, according to that gentleman's known opinion, he would consider the House as bound to make the necessary appropriation; but he desired him to recollect that no treaty was yet made; and, therefore, that that doctrine could not apply in the present case.

Mr. RUTLEDGE did not believe it was necessary or proper for that House to authorize the PRESIDENT to hold a treaty; but if it were necessary for him to hold a treaty, the concurrence of that House was necessary to enable him to do it, as it could not be done without money. It was requisite, therefore, to pass a bill, not to authorize the PRESIDENT to hold a treaty, but to enable him to do it. It was best, therefore, for the communication first to go to the Committee of the Whole, and afterwards to the Committee of Ways and Means, in order for them to say where the money could be got. There was something in this case which pointed out this mode as peculiarly proper, as there seemed to be a disposition in the House, if the treaty should not succeed agreeably to the wishes of the PRESIDENT, to afford temporary relief to the persons now suffering from being driven



from their land. The gentleman from Connecticut had said, that the Committee of Ways and Means could report an estimate of the probable expense which would be incurred in holding the treaty; but if he attended to the Message of the PRESIDENT, he would find that this estimate was to be laid before the House by the proper department, so that there was no necessity of a reference to any committee for that purpose.

The motion for a reference to the Committee of the Whole was carried, without a division.

***William Alexander.***

On motion of Mr. GREGG, the House went into a Committee of the Whole on the report of the Committee of Claims on the petition of William Alexander, surveyor of Army lands. After reading a number of papers relative to the subject, the report, which went to authorize the Treasury to settle the accounts of the petitioner, was agreed to, the committee rose, the House concurred, and a bill was directed to be brought in accordingly.

***General Kosciusko.***

Mr. PINCKNEY, from the committee appointed to confer with the Senate on the disagreement between the two Houses on the bill for the payment of interest to General Kosciusko, reported, that finding the business could be settled in a manner equally advantageous to the General, by agreeing to the amendment of the Senate, as by the mode originally proposed, the committee recommend it to the House to recede from their disagreement to the Senate's amendment.

The recommendation was concurred in by the House.

***Civil Appropriation for 1798.***

On motion of Mr. HARPER, the House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means for providing for the expenses of the civil department for the year 1798, and the blanks being filled (except in a few cases, in which they were left in blank) according to the estimate which had been laid before the House, the committee rose, the House concurred, and the bill was ordered to be reported accordingly.

**THURSDAY, January 18.**

The SPEAKER laid before the House a communication from the Secretary of War, enclosing an estimate of the appropriations necessary for holding a treaty with the Cherokee Indians, which was in substance as follows:

For three commissioners, ninety days, at eight dollars per day	\$2,160
Incidental expenses of do.	360
Secretary, at four dollars per day	360
Rations of two thousand Indians	15,000
Presents to the Indians	5,000
Stores for the commissioners	2,000
Incidental expenses	1,200
	-----
	25,880
	=====

This statement was referred to the Committee of the Whole to whom was referred the former Message of the President on this subject.

***Persons Imprisoned for Debt.***

The following Message, with the papers to which they refer, was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

A representation has been made to me, by the Judge of the Pennsylvania district of the United States, of certain inconveniences and disagreeable circumstances, which have occurred in the execution of the law passed on the 28th day of May, 1786, entitled "An act for the relief of persons imprisoned for debt," as well as of certain doubts which have been raised concerning its construction; this representation, together with a report of the Attorney General on the same subject, I now transmit to Congress, for their consideration, that if any amendments or explanations of that law may be thought advisable, they may be adopted.

JOHN ADAMS.

UNITED STATES, *January 18, 1798.*

This Message, with the papers accompanying it, was referred to the same Committee of the Whole to whom was referred the report on the petition of William Bell.

Mr. NICHOLAS inquired with what sums the blanks in the bill were to be filled.

Mr. HARPER said he proposed to fill the first with \$40,000, and the last with \$28,650.

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Mr. NICHOLAS conceived this to be a good time for the House to attempt to bring back the establishment of the diplomatic corps to the footing on which it was settled at the commencement of the Government, and continued down till the year 1796; and to prevent in future the probable increase which he apprehended from the recent examples, he thought it necessary to take a view of this subject, not only from the increase of expense, but from a variety of other considerations. It is not the manner in which a Government is constituted which makes its operations easy and certain. But the execution of the powers of the Government itself is no more to be considered than the nature of its formation; for I do believe there is a tendency in all Governments like ours to produce a union and consolidation of all its parts into the Executive department; and that the limitation and connection of the parts with each other, as settled in the constitution, would be destroyed by the influence I have mentioned, unless there is a constant operation on the part of the Legislature to resist this overwhelming power. I think we have the most convincing proofs that a representative Government can be made most oppressive and burdensome, and yet preserve all the forms which are given to it by a constitution; and the Legislature shall appear to act upon its own discretion, whilst that discretion shall have ceased to exist. Where the Executive has an influence over the Legislature, and the Government is a representative one, the Executive is capable of carrying its views into effect in a manner superior to what can be accomplished even in the most despotic monarchy; the mischief will be carried farther in the former case than in the latter, because the people will be more inclined to submit to the decisions of a Government of its own choosing than to one which rules them by hereditary right; monarchs cannot carry their oppressions so far, without resistance, as republics. Under this general view of the subject, he conceived it to be the duty of the Legislature to guard cautiously its own independence, and to limit, as far as consistent with the general welfare, the influence of Executive patronage.

He conceived that this extension of influence of one branch of the Government over another was strictly guarded by the constitution, which was framed on the principle of checks and balances—of departments acting and controlling each other; but he was sorry to see the idea of patronage drawn into a closer compass than it had formerly been, as it increased the evil. He was sorry for it, because it tended to manifest a circumstance which had been sought to be concealed. Every insinuation that there was a division between the Government and the people had been repelled as an insidious and malignant design; but the Administration, by acting on a new principle, which he was too well assured was the fact, had established the idea that there was a division between it and a considerable portion of the people. The evidence of this fact had been long shown, and he feared the operation of circumstances of this nature on the public mind.

He gave it as his opinion on our foreign intercourse, that the United States would be benefited by having no Ministers at all. He did not think that we could be benefited by any sort of compact these foreign agents could form for us, for we only bound ourselves by any treaty we entered into, as we are totally incapable of enforcing the execution of the stipulations made by other nations by any offensive measures. It might be thought necessary to make commercial arrangements with some European powers; but, he asked, if they had the force to make a foreign country conform to its engagements? No gentleman would say that they had; therefore such regulations only tended to entangle ourselves, without rendering commerce any efficient aid. He would, therefore, leave our commerce to seek its own markets totally disembarassed. All the protection we could furnish it with, consisted in officers of another grade than those mentioned in this bill: Consuls who should reside in the seaports, and not Ministers Plenipotentiary residing in the interior.

He did not intend by the motion he was about to make, that the whole diplomatic establishment should be destroyed at this time, but merely to reduce it to what it had been before the late increase. With this view he proposed to alter the bill so as to direct that there should be appropriated \$9,000 for a Minister Plenipotentiary at London, and \$9,000 more for another near the French Republic, and that the PRESIDENT be left at liberty to reduce the Ministers Plenipotentiary at Berlin, Madrid, and Lisbon, to Ministers resident, which would diminish their salaries one-half—a resident Minister being of a lower grade has only \$4,500 per annum. He then went into a detail of the proceedings of the first Congress, in order to show that it was admitted on all sides by that body, that the constitution vested the power of specifying and limiting the salaries of foreign Ministers and Consuls; he read the speeches of Mr. LAWRENCE, Mr. SHERMAN, Mr. W. SMITH, of South Carolina, Mr. SEDGWICK, Mr. HUNTINGTON, and several others, from the Congressional Register, by which it appeared, that there was but one opinion on their powers under the Constitution; and showed from hence, that the only reason why the House did not undertake to enumerate and fix the salaries of foreign Ministers in detail, arose merely from the want of information as to the places where they should be fixed, and the sum necessary to cover their expenses. As his construction corresponded with that of the gentleman who fixed the principles upon which the Government was put in motion, he was encouraged to expect his motion would succeed, seeing that the House had now had sufficient experience to enable them to say what were the regulations proper to be made.

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Mr. HARPER supposed it would be remembered by all those gentlemen who had attended to the business of Congress for several years past, that the doctrine of the gentleman from Virginia was by no means new. The subject of foreign intercourse was never taken up, without that gentleman,

or some other who agreed with him in sentiment, advancing these opinions; they never failed to speak of the danger to be apprehended from Executive influence, from its power to appoint foreign Ministers; that foreign intercourse was unnecessary; that our public affairs abroad were not to be attended to, and that commerce ought to be given up, or left to shift for itself. Nor was this a doctrine confined to this country, or this age. Whenever a set of gentlemen in any country found their views opposed by the measures of Government, they became vexed, and attributed the proceedings of those who differed from them in opinion to any motive rather than the public good. The desire of Executive favor, or Executive offices, was an usual charge, and it was at this day well understood. It would also be remembered, that whenever the subject of foreign intercourse had been discussed, though these objections had been constantly made to it, they had been as constantly disregarded by the Congress of the United States. The good sense of the country had weighed these objections in the balance, and declared them wanting; and he trusted the same fate would now meet them as heretofore.

In aid of the \$40,000 per annum, originally granted for this purpose, Mr. H. said, various supplementary appropriations had been made. First, a sum of \$20,000, then a sum of \$23,000, and, in March last, \$17,000, and, in addition to this, \$14,000 for a particular appointment. The House had, therefore, not only deemed it expedient to continue the original act, but to make additional appropriations from year to year. He thought the good sense of the country had never been more firmly shown than on this subject. But now a new course was to be taken, and all former proceedings declared to have been wrong. But it was said this country had no need of foreign ministers, and that commerce might be left to itself. He did not believe the House would think so. Did not the United States trade with all the nations of the earth? How, then, was it possible to do without accredited agents to attend to our concerns in foreign countries? Were we to give up our commerce? There were gentlemen, he knew, who would answer, Yes. They would tell the House, commerce was a bad thing, and that it rather ought to be outlawed than protected. But was this the sense of the country? Was it the sense of that House? Would they discard the property of that class of citizens who depended upon it for their support and their wealth? Or would they be ready to forfeit the revenue arising from it? Mr. H. said he had often heard of the dangerous nature of foreign intercourse; but it was the discovery of a few men who believed that every thing which had been done by this Government had been radically wrong. He trusted, however, the House would adhere to what it had so frequently sanctioned, and that the proposed amendment would not be agreed to.

Mr. GALLATIN believed that there were a number of people in the United States—people otherwise enlightened, and who, upon all common subjects, possessed sound understandings—who were fully convinced that there was a faction existing within the United States, and even within the walls of that House, who wished to demolish the Government; and he further believed that this opinion was supported by such declarations as had been made by the gentleman from Connecticut. He should be sorry that such a belief should be considered as dangerous to the safety of the community. Nor could he consider the determination of the Executive to employ only such persons as are of the same political opinions with themselves, as of such a nature as to produce fatal consequences, and that Government, on that account, was unworthy of confidence. He believed that such a line of conduct must flow from the present state of parties in America, divided as the people were upon many important occasions. To say, therefore, that the Executive employed persons of consonant political opinions to its own, was not to say the Government did not deserve confidence. But if the committee turned their attention to the amendment proposed, it only went to declare that ministers to London and Paris should not have a salary of more than \$9,000 a year; and that ministers to other parts of Europe should not have more than \$4,500. In support of this amendment, it was said that this was the ground upon which this Government first fixed the business of foreign intercourse. He believed this statement correct. Until the year 1796, there was no minister plenipotentiary except at Paris and London; at other places there were no higher grades than ministers resident. Hence the committee might be led to argue the propriety of bringing back our foreign political intercourse to what it was before that period. He said foreign political intercourse; because he thought the gentleman from South Carolina (Mr. HARPER) had blended two subjects together, viz: foreign commercial intercourse, and foreign political intercourse. He did not believe it was the opinion of any gentleman in that House that commerce ought to be left to shift for itself, unattended to. He believed it was well understood that our commerce in foreign countries was attended to by our consuls and not by our ministers plenipotentiary; and consuls would exist if we had no ministers at all. Therefore, all that gentleman's arguments, which tended to show that the amendment would affect our commercial intercourse, had no foundation whatever.

Returning to the question of foreign political intercourse: Was it proper to bring it back to what it was eighteen months ago? And, before he proceeded further, he would observe that, though the gentleman from South Carolina had been tolerably correct in his statements of the business, he was mistaken in one point, in which he would set him right. He had stated that the first additional appropriation was \$20,000; but this sum was not appropriated for foreign intercourse, but for defraying the expense of the suits of our merchants in London. On the first of January, 1796, there remained a balance of unexpended appropriation for this object, of \$30,000. To that day no extraordinary appropriation had been made; the whole allowance was \$40,000 a year, which was found to be more than sufficient. On the 28th of May, 1796, an estimate was sent by the PRESIDENT OF THE UNITED STATES, stating the sums already appropriated for foreign intercourse, and that \$23,500 were yet wanting, in order to change the establishment which had till that day existed, by sending Ministers Plenipotentiary to Madrid and Lisbon, instead of Ministers Resident. This estimate, he just stated, was received on the 28th of May, and the law received the signature of

the PRESIDENT on the first of June, so that it could not have received a very full discussion (being passed just as the session was about to close) and he thought there was good reason for examining the thing again. The next appropriation was made in the second session of the fourth Congress. In that session, he allowed, the additional appropriation was passed after full discussion. It was made upon an estimate stating \$17,900 wanted; and, during last session, an appropriation was made for a Minister to Berlin, of \$13,500.

The committee had been told that it would evince great versatility if they were all at once to change what had already been done. But it must be recollected, than when the change in the system was first made, it underwent little discussion; and he would venture to say, that our business abroad was as well done from the year 1786 to 1796, as it had been done since. As the question was whether a larger or a smaller sum of money should be appropriated, he would call upon gentlemen in favor of the larger sum, to show what benefit was derived from Madrid and Lisbon by the change; what necessity there was for a Minister at Berlin, and what good was to be derived from giving a larger salary than \$4,500. The gentleman from Connecticut had said, why send a Minister Plenipotentiary to London or Paris, any more than the other Courts? This was done at first, and the mover, he supposed, wished not to innovate upon the law as originally passed.

But they were told it was improper, upon this floor, to say any thing about patronage, and that all arguments of that kind are well understood, and are by no means novel in their nature; that such complaints are made under all forms of Government by discontented people out of office. To say that these complaints are well understood, was the same as to say that the ground upon which they complained was also well understood: it was to acknowledge, that persons who were in the favor of the Executive had some advantages which persons in the other party desired or envied. To admit of one position, was to admit of the other. But, if no particular advantage was to be derived from Governmental patronage, then the cause of jealousy, according to this doctrine, must cease.

Our Government, he said, was in its child-hood; and if this patronage had any existence, it could not of course be as yet alarming. But he desired gentlemen to look at all Governments where this power was placed in the Executive, and see if the greatest evil of the Government was not the excessive influence of that department. Did not this corruption exist in the Government which was constituted most similarly to ours, to such a degree as to have become a part of the system itself, and without which, it is said, the Government could not go on? Was it not, therefore, prudent to keep a watchful eye in this respect? He did not, however, speak against the power itself; it was necessary to be placed somewhere. The constitution had placed it in the Executive power. If the same power had been placed in the Legislature, he believed they would have been more corrupt than the Executive. He thought, therefore, the trust was wisely placed in the Executive; and though it was right to keep grants of money within proper bounds, in order to prevent the abuse of power, yet it was proper to grant all that was necessary.

Mr. G. concluded, by saying, that if he thought it was proper that our political intercourse should be extended, he should not support the amendment; but as the conviction was strong upon his mind that our foreign political intercourse had at least been as expensive as it ought to be; that it was owing, in a great degree, to our political intercourse with foreign nations, that our present critical situation was produced; that this intercourse produced more evil than good to us; that he wished to bring the business back to the state in which it stood in 1796. If the wisdom of future Legislatures shall think proper to abolish the establishment of foreign political intercourse altogether, it must be left to them to decide. He himself thought it would be going too far to do so at present. He believed, situated as we were, it was necessary to have some political intercourse; but he believed it would be best, by degrees, to decline it altogether.

Mr. SITGREAVES.—The constitution and laws of the country had made certain offices necessary, and left it to the Executive to fill them as he pleased; and was it for that House to attempt to control this discretion? If it were executed to the injury of the people, the constitution had pointed out the remedy to be by impeachment. But where was the crime, the offence, or the impropriety, of the conduct ascribed to the Executive, if it had been adopted? Would gentlemen say that the Executive ought to appoint persons to office who professed an opinion contrary to its own? Did gentlemen suppose that there was such a want of integrity in this department of Government, that it adopted a political opinion which it did not believe to be right? And, if it were believed to act from principle, would it be prudent or right to admit to a participation in the execution of the important duties of Government persons whose sentiments were not in unison with those of the Executive, and who could only create discord and confusion, where nothing but harmony and union ought to prevail? If the Executive acted upon just principles, it would endeavor to give singleness of design to its operations, and it could only do this by admitting persons into the Government who thought with it. This would be a right, prudent, and honorable conduct; and where it had been deviated from (as he had before observed), Government had received an awful lesson for its future conduct.

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The question whether that House had the power to interfere with the Executive authority, by withholding appropriations, had been fully discussed in a former Congress, and the opinion of the country was not now to be fixed on this subject. For that part of the House who thought the constitution had not vested them with the authority of controlling the Executive, it was sufficient to say that the Executive had thought it necessary to introduce the change in the diplomatic department, which was complained of, and that they felt themselves bound to carry his determination into effect; but those who think that the House of Representatives may control the Executive in this respect, will of course act accordingly.

Mr. BALDWIN said he perceived there was a real difference of opinion between the gentleman last up and himself. The gentleman supposed the diplomatic establishment was fixed by the Executive, and the Legislature had nothing to do with it but to provide the money. Every person must see, even from a cursory view of the constitution, that this was designed to be a Government of departments, Legislative, Executive, and Judicial, to be kept distinct as far as possible. It was the business of the Legislature to establish offices by law; it was the business of the Executive to fill those offices. It would appear, from tracing back the law, now proposed to be continued, that it originated in this manner. He had not been notified of the subject as being likely to be called up to-day, and was not prepared to be as particular as he could wish as to facts. He had endeavored to refresh his recollection since it had been under discussion, and he found that it originated from the Speech of the PRESIDENT, at the opening of the second session of the first Congress, in which he said, "that the interests of the United States required that our intercourse with other nations should be facilitated by such provisions as will enable me to fulfil my duty in that respect; 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 law." This part of the Speech was referred to a committee, and from that originated this law. Want of information, at that early time in the Government, prevented their being as particular as they wished. They fixed a sum to each grade, and a sum beyond which the whole amount should not extend; limited the law to a short period, that it might be open to be corrected by experience. The present motion, if he had understood it, proposed now to be a little more particular in the establishment, by fixing the sum for particular places—to do the very thing then recommended by the PRESIDENT. The same has always been the intention of every succeeding Congress, which was the reason why they continued it only for short periods, leaving it open to such amendments as should be suggested by experience. These ideas of the offices being first to be established by law, appeared not only to be the sense of the former PRESIDENT, and of each succeeding Congress, as he had stated, but appeared also to be the opinion of the present PRESIDENT. At the last session he thought that a higher grade of office was necessary at Algiers: this he stated in a message to Congress—that as there were great expenditures of money on that coast, he thought it necessary that an establishment should be made which would enable him to appoint a very confidential person, on whom the other officers there should be dependent, and who should control their proceedings and expenditures. Congress concurred in this opinion, passed a law for the establishment of the office, and then the Executive appointed the officer. For these reasons he considered the question within their proper powers, and fairly open to their deliberation.

At the close of the revolutionary war, the disposition of forming many treaties, and having extensive diplomatic connections with European powers, was carried even further than it has been since. It was among their first national acts, and discovered marks of youth and inexperience; a few years convinced them that they had gone too far, that this country had little to expect from treaties, and much to lose, and that many diplomatic connections were more frequently the cause of perplexity and embarrassment, than of any national advantage. The Congress under the articles of confederation were extricating themselves from that policy as fast as possible; as these expired in course, they were careful not to renew them. For several of the last years of that Congress he well recollected that clusters of candidates for these appointments, supported by powerful interests and connections, were uniformly resisted; and, if he mistook not, when this Government came into operation, this country had but one Minister in Europe. The conviction on this subject was so strong, and experience had so fully settled it as the true policy, that it remained immovable for some time after organizing the present Government. All appropriations for foreign Ministers were refused at the first session, as far as he recollected. At the second session it was urged, in the Speech of the PRESIDENT, as before stated, and enforced by more particular explanations to individuals, as designed to be for temporary purposes, respecting the Northern forts and the property that was withheld. Under these explanations a law passed, as before explained. It was true, this policy had been of late, in some measure, departed from. He thought experience had already been useful to them in this course also, and ought to administer caution to them in seeking to intermingle in European politics. Ambassadors and Ministers cannot be entirely indifferent to the characters and events with which they are constantly surrounded; the share they take is very apt to be exchanged between the countries to which they belong. He did not wish to be too particular on that point; he was persuaded facts enough presented themselves to the recollection of every member, to confirm his remark. It might be said that on this also we have an awful lesson. If evil had been experienced from this cause, he hoped it would operate as a reason to endeavor to diminish it. He thought it not unreasonable for the House to interpose their restraining power as to granting money, and the more particular establishment of the officers, and thus aid the other departments of the Government in bringing back, by degrees, this part of our policy to its former principles, so well sanctioned by experience. Whether the present motion was well timed, or whether it was best to give it another short limitation, before we went into a definite establishment, was another question, on which he was willing to hear more remarks. Informed as he was at present, he should vote for the motion, and thought they might make some amendments to the former bill, already suggested by experience, and which would be useful.

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The committee rose, and had leave to sit again.

**FRIDAY, January 19.**

***Foreign Intercourse.***

The House again resolved itself into a Committee of the Whole on the bill providing the means of foreign intercourse, when

Mr. PINCKNEY rose. He understood the amendment was intended to confine our Ministers Plenipotentiary to London and Paris, and that no higher grade than Ministers Resident should be employed in any other country. He was opposed to this change at this time, and to the mode proposed of doing the business, if the time were seasonable. It was proper that at this juncture our Ministers should remain as they were, as it was prudent to derive all the influence and advantage we could from the situation of our agents in Europe, who would not only be enabled to communicate more correct information from thence, than could be derived from any other source, but who could also explain the motives and objects of this Government, and by that means remove any unfavorable impressions which may be attempted to be given with respect to this country; and thereby put our business in the best train for securing the neutral standing which we have taken. He was against it for another reason. To change the diplomatic intercourse in the way proposed, would be forcing upon the Executive a measure contrary to its wishes. It would also be affording testimony to the charge heretofore made, that there was a division in the Government and the people—a situation in which many wished to see us. He should be sorry to afford the appearance of one department of Government having forced upon another a change of measures of which they are the competent judges, and upon which they have acted. As it was well known that there was a very intimate connection between Spain and Holland, and the country with whom we have at present a misunderstanding, he should be unwilling to deprive this country of the advantages to be derived from having Ministers at those places; besides, if our Ministers were to be recalled from thence, it would be considered as an extraordinary proceeding; and might be construed as intended to be hostile to them. Whatever influence Spain or Holland may have in the councils of the country which he had alluded to, by continuing our Ministers there, it was probable that weight would operate in our favor. There was an additional reason with respect to Spain. It was well known that we had points yet to settle with that country. Our treaty with that power was not yet carried into effect, and negotiations might at this time be going on in relation to it, which might be frustrated by the recall of our Ministers.

Mr. NICHOLAS wished to explain his intentions in bringing forward this amendment. He believed the gentleman last up would find they nearly corresponded with his own. He had no idea of putting an immediate veto upon the Ministers at present employed. He considered this bill, though passed with a limitation, as a permanent system, and a subsequent clause of the bill would enable the committee to fix the time at which the salaries of Ministers should cease. His wish was to put a limit to this extension of Executive power. He reminded the gentleman from South Carolina that Holland was not concerned in this bill, as we had only a Minister Resident there. If the subject were further dilated upon, he should offer some further remarks upon it.

Mr. N. SMITH was surprised to hear the gentleman last up considered that as a permanent provision which was limited to a duration of two years. This law was merely temporary in its nature, and if he only contemplated some future regulations in our foreign intercourse, his amendment was not now necessary. However competent it was for the Legislature to settle the salary of Ministers, it was clear the Legislature had no power, by the constitution either to determine the number of foreign Ministers to be employed, where they should be sent, or what should be their grade. Under the general power of making treaties, vested in the President, he had the power of sending Ministers where he pleased; also in the power intrusted to him of executing the law (not only the municipal, but the law of nations) it was necessary he should have this power.

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In a word, all relations were in the hands of the Executive; all our foreign intercourse was to him, and from him. Of course, he was the only judge of what was proper in this business. This being the case, it should seem as if that House had nothing to do with respect to the propriety of sending a Minister to Berlin, or in relation to other grades of Ministers, though they had the power of fixing their salaries. But it was contended by the gentleman from Georgia and others, that, by regulating these salaries, the Legislature had the power of preventing the extension of their establishment. This brought up an old question; but it was a very important one, and he did not regret that it was frequently drawn into discussion. He thought the great landmarks of our constitution could not be too well understood. He did not mean, however, to extend his observations on this subject. It was said, this was a Government of departments and checks, and of course, that the Legislature ought to check the Executive in its operations. That this was a Government of departments and checks, to a certain extent, he should readily allow; but that it was so to the extent which had been represented, he did deny. Our Government was divided into three departments, the Legislative, Executive, and Judicial; each of these had checks and balances in its own department. The President was checked by the Senate; the Legislature was checked by the President and Senate; the Judiciary was checked by having certain appeals, writs of error, &c. So far from one department checking the other, it was necessary that all the parts should act in unison like a clock, and the moment one part declined to act, the Government could not proceed. It was not in the power of the Legislature to reverse the decision of the lowest court, and should it then be said that they could judge over the head of the Executive? This remark was applicable to all the departments. No one department was a favorite of the constitution. Every act of a department ought to be considered as well done. This being the case, whenever the President had appointed a Minister, and done it constitutionally, when he informed the Legislature thereof, they might do any thing and every thing but doubt the propriety of establishing the Minister.

Mr. HARPER.—AS to the general policy of the present motion, as connected with the foreign

relations of this country, Mr. H. said that he would add two or three remarks on that subject, and then conclude.

The motion went, he said, to reduce the appointments and salaries of three ministers: those to Madrid, Lisbon, and Berlin; and in support of the motion, it was alleged that the last of these Ministers was entirely unnecessary, and that the other two had been improperly, because unnecessarily, raised from Ministers Resident to Ministers Plenipotentiary. To him it was a sufficient answer to these allegations to say, that the President had thought otherwise; because, the President, being charged by the constitution with the foreign relations of the country, must be invested with the means necessary for conducting them with effect; and was infinitely better qualified by this situation to judge what those means were, and how they ought to be used, than the House can pretend to be. One of these means was the appointment of foreign Ministers, which was expressly vested in the President by the constitution. When the President, therefore, had thought fit to appoint foreign Ministers, or to alter their grades, he had exercised a constitutional power, and it did not lie with the House of Representatives to object or judge. To him, therefore, Mr. H. said, it was a sufficient answer to all those objections to say that the President had thought otherwise. To others, who might hold different opinions from him on this subject, he thought it was a sufficient answer to be told that the House of Representatives, as well as the President, had thought differently, and had sanctioned the changes which he had thought proper to make in this respect, by voting money to carry them into effect. This the House had done expressly in all the three cases contemplated by the present motion.

Mr. GALLATIN said the committee had been told, in the course of the debate, by some gentlemen, that this attempt to reduce the number of our Ministers was unconstitutional; by others, that it was inexpedient; and even some gentlemen, who agreed to the general expediency of the measure, believed it would be attended with inconvenience from our present foreign relations.

In relation to the constitutionality of the thing, he did not believe, whatever doctrine was supported with respect to treaties, that upon this occasion the committee should be told that they were interfering with the constitutional power vested in the President. It was true that he had the general power of appointing Ambassadors, but it was not less true that the Legislature had the sole and exclusive power to provide for all the expenses of the Union. Hence arose the idea of ours being a Government of departments, so formed as to be a check upon each other. But the gentleman from Connecticut (Mr. N. SMITH) said there was no such thing as a check of departments; that each was distinct; and, though each had checks within itself, none of them checked the other. And to illustrate his position, he introduced the simile of a clock, at the same time that he told them that the Executive Department was the main-spring which put the clock in motion, whilst Mr. G. supposed he meant that the other branches were merely the hands, which moved as they were directed. But if there was any act which could not be done but by all the branches, each had its share in deciding upon the propriety of it. When a treaty was made it had been argued that that House had nothing to do but carry it into effect; but here it was said that the House were bound to provide for every Ambassador appointed; and if, by withholding salaries, they obliged the President to send Ministers Resident where he wished to send Ministers Plenipotentiary, they would act inconsistently with the constitution. Though gentlemen might make speeches on this subject, they must know that where the Legislature had a right to act, it had a right to deliberate and to use its discretion.

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It was true treaties had been made, but no treaty had been made since the adoption of the present Government, by Ministers Resident at any Court at the time. If any benefits were derived to the country from the British treaty, they must be attributed to the Envoy Extraordinary, and not to our Minister at that court. And when our treaty with Spain was concluded, it was necessary to send a Minister Resident to another Court to do the business. Since our treaties were always made by special Envoys, what advantage could it be to have numerous Ministers Plenipotentiary in Europe? In the present critical situation of the country, agitated as it was to the centre, was it not to be apprehended that our Ministers would participate, in some degree, in the party spirit which there abounded, and rank themselves on one side or the other, which would have a tendency to draw this country into a vortex from which we were so happily separated by the Atlantic? We were the only nation, he said, who possessed a Government on a firm foundation, in which civil and religious liberty was fully recognized; we, therefore, enjoyed what the people of Europe were seeking after. We have nothing to wish, except to remain in our present situation. Why, then, should we hazard the being involved in European broils? He had before stated that Consuls were equal to every commercial regulation, and he had heard nothing to change his opinion. Seeing, therefore, that these diplomatic agents were rather dangerous than useful, he thought it time to put a stop to their increase.

Mr. BAYARD began his observations by remarking, that the gentleman from Virginia had said that it was not his design that his motion should have an immediate effect upon the Ministers at present employed. If the gentleman was sincere in his avowal, it was clear that he did not understand his own motion; for whatever amendment was introduced into the third section, which the gentleman had intimated might be so amended as to give the regulation a distant operation, as it only related to the sum of money to be appropriated, it would not enable the President to employ a Minister Plenipotentiary, besides those at London and Paris, at a higher salary than \$4,500.

Some gentlemen have said, it was idle talk about this House having the power to appropriate, without having the power at the same time to use their discretion. He contended that the power of appointing Ministers was vested in the President, and the House had no right to believe he would abuse this power. It had been supposed by the gentleman from Pennsylvania, that he

might appoint an indefinite number of Ministers; and were the House, in that case, he asked, blindly to appropriate for them? This question was predicated upon an abuse of power, whilst the constitution supposed it would be executed with fidelity. Suppose he were to state the question in an opposite light. Let it be imagined that this country has a misunderstanding with some foreign power, and that the Executive should appoint a Minister, but the House, in the plenitude of its powers, should refuse an appropriation. What might be the consequence? Would not the House have contravened the constitution, by taking from the President the power which by it is placed in him? It certainly would. So that this supposition of the abuse of power would go to the destruction of all authority. The Legislature was bound to appropriate for the salary of the Chief Justice of the United States, and though the President might appoint a *chimney-sweeper* to that office, they would still be bound. The constitution had trusted the President, as well as it had trusted that House. Indeed it was not conceivable that the House could act upon the subject of foreign Ministers. Our interests with foreign countries came wholly under the jurisdiction of the Executive. The duties of that House related to the internal affairs of the country; but what related to foreign countries and foreign agents was vested in the Executive Department. The President was responsible for the manner in which this business was conducted. He was bound to communicate, from time to time, our situation with foreign powers; and if plans were carried on abroad for dividing or subjecting us, if he were not to make due communication of the design, he would be answerable for the neglect.

## TUESDAY, January 30.

### *Breach of Privilege.*

Mr. SEWALL then said, he believed the business which he had to lay before the House would require secrecy, as it was a subject which would considerably affect the feelings of the members of the House. He therefore moved that the galleries might be cleared; which was accordingly done, excepting the members and Clerk.

Mr. SEWALL then said, that he had been informed, in a manner which left no doubt of the truth of the fact, that, in the presence of the House whilst sitting, MATTHEW LYON, a member from the State of Vermont, did this day commit a violent attack and gross indecency upon the person of ROGER GRISWOLD, another member of this House; and in order to bring the subject before the House, that he had prepared a resolution, which he read in his place, and delivered in at the Clerk's table. A question was then taken in the following words: Does the matter so communicated require secrecy?

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This motion passed unanimously in the negative, and the galleries were opened.

The House then proceeded to consider the motion made by the member from Massachusetts, which was read, as follows:

*"Resolved, That Matthew Lyon, a member of this House, for a violent attack and gross indecency committed upon the person of Roger Griswold, another member, in the presence of the House, whilst sitting, be, for this disorderly behavior, expelled therefrom."*

It was moved that this resolution be referred to a committee to be denominated a Committee of Privileges, with instruction to inquire into the whole matter of the said resolution, and to report the same with their opinion thereon to the House.

The question was taken by yeas and nays, and decided in the affirmative, 49 to 44.

*Ordered, That Messrs. PINCKNEY, VENABLE, KITTERA, ISAAC PARKER, R. WILLIAMS, COCHRAN, and DENT, be a committee for the purpose.*

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

*"Resolved, That the House will consider it a high breach of privilege if either of the members shall enter into any personal contest until a decision of the House shall be had thereon."*

A motion was made to add the following words to the end thereof:

*"And that the said Matthew Lyon be considered in the custody of the Sergeant-at-arms until the further order of the House."*

The yeas and nays were taken upon this question and decided in the negative—29 to 62.

## THURSDAY, February 1.

### *Breach of Privilege.*

The SPEAKER informed the House that he had received a letter from a member from Vermont, which he was requested to lay before them.

Mr. RUTLEDGE thought, that in all cases, when letters were sent to the SPEAKER to be laid before the House, it would be proper for him to state the substance of such communications before they are read, otherwise improper matters might be brought before them.

The SPEAKER allowed that the suggestion was a proper one, and proceeded to state the contents of the letter in his hand; which having done, the reading of it was called for, and it was read as



follow:

*To the Speaker of the House of Representatives:*

SIR:—As the attention of the House of Representatives has been called to my conduct in a dispute with Mr. GRISWOLD on a suggestion of its being a violation of the order of the House, and the respect due to it from all its members, I feel it incumbent on me to obviate the imputation of intentional disrespect. Permit me, sir, through you, to assure the House of Representatives that I feel as much as any of its members the necessity of preserving the utmost decorum in its proceedings; that I am incapable of an intentional violation of its rule; and that, if, in the present instance, I am chargeable with a disregard of them, it is owing wholly to my ignorance of their extent, and that the House of Representatives claimed any superintendence over its members when not formally constituted, and when they are not engaged in actual business. If I have been mistaken in my understanding on this subject, I beg the House to believe that my fault has been without intention, and that I am very sorry that I have deserved its censure. I am, sir, your obedient servant,

MATTHEW LYON.

*February 1, 1798.*

The reading of the letter having been gone through, a member proposed that it should lie on the table, when

Mr. MACON said, that as it was an acknowledgment of improper conduct, he thought it ought to be entered upon the journals.

Mr. NICHOLAS moved that the letter be referred to the committee who have this subject under consideration. Gentlemen would recollect, he said, that, on a former occasion, when an offence of the same nature was committed, a letter written by the offending member was not only referred, but was also deemed a sufficient apology to the House. He did not know that this would be the case in the present instance; but that it might be, was evinced by the case to which he alluded. He hoped, therefore, it would be referred. Agreed to.

## **FRIDAY, February 2.**

### ***Breach of Privilege.***

Mr. VENABLE from the Committee of Privileges, made the following report:

The Committee of Privileges, to whom was referred a resolution on the 30th of January, charging Matthew Lyon with disorderly behavior, with instructions to inquire into the whole matter thereof, and to report the same, with their opinion thereon, to the House, having examined several witnesses on oath touching the subject, report: That, during the sitting of the House of Representatives on the 30th day of January, 1798, the tellers of the House being engaged in counting the ballots for Managers of the impeachment against William Blount, the Speaker had left his chair, and many members their seats, as is usual on such occasions; the Speaker was sitting in one of the member's seats, next to the bar of the House, and several members near him, of whom Mr. Griswold was one.

Mr. Lyon was standing without the bar of the House, leaning on the same, and holding a conversation with the Speaker. He spoke loud enough to be heard by all those who were near him, as if he intended to be heard by them. The subject of his conversation was, the conduct of the Representatives of the State of Connecticut, (of whom Mr. Griswold was one.) Mr. Lyon declared that they acted in opposition to the interests and opinion of nine-tenths of their constituents; that they were pursuing their own private views, without regarding the interests of the people; that they were seeking offices, which they were willing to accept, whether yielding \$9,000 or \$1,000. He further observed that the people of that State were blinded or deceived by those Representatives; that they were permitted to see but one side of the question in politics, being lulled asleep by the opiates which the members from that State administered to them; with other expressions equally tending to derogate from the political integrity of the Representatives of Connecticut.

On Mr. Lyon's observing, that if he should go into Connecticut, and manage a press there six months, although the people of that State were not fond of revolutionary principles, he could effect a revolution, and turn out the present Representatives—Mr. Griswold replied to these remarks, and, amongst other things, said that, "If you go into Connecticut, you had better wear your wooden sword," or words to that effect, alluding to Mr. Lyon's having been cashiered in the army.

Mr. Lyon did not notice the allusion at this time, but continued the conversation on the same subject. Mr. Griswold then left his seat, and stood next to Mr. Lyon, leaning on the bar, being outside the same.

On Mr. Lyon's saying he knew the people of Connecticut well, having lived among them many years—that he had frequent occasion to fight them in his own district,

and that he never failed to convince them—Mr. Griswold asked, if he fought them with his wooden sword, on which Mr. Lyon spat in his face.

The Committee having attentively considered the foregoing state of facts, and having heard Mr. Lyon in his defence, are of opinion that his conduct in this transaction was highly indecorous, and unworthy of a member of this House.

They, therefore, recommend the adoption of the resolution submitted to their consideration by the House, in the words following, to wit:

"*Resolved*, That Matthew Lyon, a member of this House, for a violent attack and gross indecency, committed upon the person of Roger Griswold, another member, in the presence of the House while sitting, be for this disorderly behavior expelled therefrom."

The report having been read,

Mr. LYON said, he did not think the evidence was stated in its full extent in this report. He wished, therefore, before the House proceeded in the business, they would hear the evidence themselves.

Mr. HARPER inquired of the SPEAKER whether that was the usual mode of proceeding?

The SPEAKER said, it was necessary first to take up the report for a second reading.

Mr. MACON observed that this was a very delicate and a very serious question, as it related to one of the members of that House, and as it respected the dignity of the House itself. He hoped, therefore, the report would be printed, that some time would be given to consider it, and that the House would themselves hear the testimony. The punishment which the report proposed was equal to death itself. He hoped, therefore, it would not be acted upon hastily, but made the order of the day for Monday.

Mr. HARPER did not wish to press the business in an improper manner, as it was certainly of great importance to a member of that House, to the House itself, and to the dignity of the country. It was usual to have all reports of any consequence printed, and a day or two given for consideration. He was not himself desirous of delay, as he was at present ready to vote upon the question; but, if other members wished it, he should not object to the motion proposed by the gentleman from North Carolina.

Mr. NICHOLAS took it for granted, that, whenever this subject came up, the House would think it necessary to go into an examination of the witnesses themselves, and not rely upon the manner in which their testimony had struck others. He thought it would be best, therefore, whilst the report was printing, to go on in the examination of witnesses.

The question for postponing till Monday was put and carried.

Mr. NICHOLAS said, he had no objection to wait for the printing of the report, before the House proceeded to examine the witnesses, but he should not waive the right of having them re-examined before the House.

## MONDAY, February 5.

Mr. D. FOSTER reported a bill for the relief of Oliver Pollock, which was committed for Wednesday.

### *French Outrages.*

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I have received a letter from his Excellency Charles Pinckney, Esq., Governor of the State of South Carolina, dated the 22d October, 1797, enclosing a number of depositions and witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer belonging to Cape Francois, or Monte Christo, called the Vertitude or Fortitude, and commanded by a person of the name of Jordon or Jourdain, and particularly upon an English merchant ship named the Oracabissa, which he first plundered and then burned, with the rest of her cargo, of great value, within the territory of the United States, in the harbor of Charleston, on the 17th of October last. Copies of which letter and depositions, and also of several other depositions relative to the same subject, received from the Collector of Charleston, are herewith communicated.

Whenever the channel of diplomatical communication between the United States and France shall be opened, I shall demand satisfaction for the insult and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States and such foreigners as have a right to enjoy their peace, and the protection of their laws, within their limits, in that as well as some other harbors which are equally exposed.

JOHN ADAMS.

This Message, with the documents accompanying it, was referred to the committee for considering on proper measures for the protection and defence of the country.

***Breach of Privilege.***

Mr. SEWALL moved the House to take up the report of the Committee of Privileges, in order that it might be committed to a Committee of the Whole.

Mr. R. WILLIAMS wished to know whether evidence could be heard in a Committee of the Whole.

The SPEAKER said, the House might authorize the Committee of the Whole to hear evidence.

Mr. SEWALL moved the report to be committed. If gentlemen wished evidence to be heard before the committee, they would, of course, make an addition to his motion. For his own part he thought it unnecessary.

Mr. NICHOLAS had no objection to evidence being heard before a Committee of the Whole, except that it might involve the subject in some embarrassment; as it was possible that a majority of the committee might come to a decision which, according to the constitution, it would require two-thirds of the House to confirm. He saw no reason for going into a committee, except that the SPEAKER would have to give his testimony; but he did not see why the SPEAKER might not give his testimony from his seat, as well as from any other place. By going into a committee, the subject would take up a longer time than it otherwise would do, as they should have twice to go over the same ground.

Mr. R. WILLIAMS was in favor of hearing the evidence before the committee.

Mr. THATCHER was not of opinion, with the gentleman from Virginia, that this matter should be run over as soon as possible. He thought it of infinite importance, as it respected the dignity of the House and the people at large, and he hoped it would go through every form of the House.

The question for a commitment was put and carried, and it was made the order for this day.

Mr. NICHOLAS then moved that the Committee of the Whole be authorized to examine testimony, and called for the yeas and nays upon the question; which being agreed upon, they were taken, and, so little opposition was there to this mode of proceeding that the question was carried, 88 to 4. The negatives were Messrs. GORDON, SEWALL, SITGREAVES, and THATCHER.

Mr. D. FOSTER moved that the committee should be authorized to report the whole of the evidence, as he thought it was important it should be entered upon the journals. Carried.

The House then resolved itself into a Committee of the Whole, Mr. DENT in the chair, on this subject.

Mr. THATCHER said it would be necessary that a Judge should attend to administer an oath to the members who should be called upon to give their testimony.

The CHAIRMAN informed the committee that the Judge of the District Court was in the House.

Judge PETERS was accordingly called upon.

Mr. RUTLEDGE desired an oath might be administered to the SPEAKER, Messrs. S. SMITH, BROOKS, HOSMER, COIT, DANA, GOODRICH, and CHAMPLIN; which was accordingly done.

Mr. RUTLEDGE said, if there should be occasion, he should also call upon Judge CHIPMAN, a Senator from Vermont, as an evidence.

Mr. CHIPMAN was, towards the close of the sitting, also sworn.

Some conversation took place as to the best mode of taking the evidence, whether, as it was to be reported to the House, it should be received from the witnesses in writing, leaving them to be questioned afterwards by the members of the committee, or whether it should be given *viva voce*, deliberately, and taken down by the Clerk. The latter mode was at length adopted, and the SPEAKER proceeded to give his testimony.

[Taking the testimony in this case, and the debates upon it, occupied the House until the 12th of February, when, a motion having been made to amend the resolution of expulsion, by substituting a reprimand, a vote was taken on that question, and negatived—52 to 44. The vote was then taken on the resolution of expulsion, and stood yeas 52, nays 44. The constitution requiring two-thirds of the members present to carry a vote of expulsion, the Resolution was declared by the Speaker to be not carried. The following were the yeas and nays:]

YEAS.—George Baer, jr., Bailey Bartlett, Jas. A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas T. Davis, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, Wm. Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E.

Van Allen, and Peleg Wadsworth.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Wm. Charles Cole Claiborne, Matthew Clay, John Clopton, John Dawson, Lucas Elmendorph, Wm. Findlay, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Walter Jones, Edw. Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Thompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

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**WEDNESDAY, February 14.**

***Quakers' Memorial.***

Mr. SITGREAVES moved the order of the day on the report of a select committee on the memorial of the people called Quakers; which motion being agreed to, the House went into a Committee of the Whole on the subject, Mr. DENT in the chair. The report having been read as follows:

"That, inasmuch as the said memorial and address presents, in general terms only, certain subjects to the consideration of the Legislature, without containing any definite state of facts, or any specific application for its interposition, the memorialists were desired to exhibit a particular view of the grievances of which they complained, in order that the attention of the House might be directed to precise objects, and that it might be better discerned whether the complaints of the memorialists were of a nature to justify Legislative interference:

"That, in consequence of this request, the memorialists laid before the committee the representation and documents which accompany this report:

"That, on the subject of this representation, the memorialists were invited to confer with the committee, and were solicited to suggest the remedy which they conceived it to be in the power of Congress to apply to the case, as stated by them:

"That the committee, after several conferences with the memorialists, and an attentive consideration of the subject, are very clearly of opinion that the facts disclosed in the said representation are exclusively of judicial cognizance; and that it is not competent to the Legislative authority of Congress to do any act in relation to the matter thereof:

"Wherefore the committee recommend the following resolution:

"*Resolved*, That the memorialists have leave to withdraw the said memorial and address."

Mr. THATCHER could not say that he was perfectly satisfied with the report of the committee in all its parts. He wished the business disposed of without coming to any decisive resolution upon it, so as either to approve or disapprove of it. He was not ready to say that the facts disclosed in that memorial were exclusively of judicial cognizance, and that the Legislature of the Union was incompetent to do any thing in it. It might, however, be true, but it was not clear to him. He would rather that the subject should not now be acted upon: he would, therefore, propose an amendment to the report, which might conclude the business without coming to any resolution upon it, which had been the course heretofore taken with similar applications. He moved, therefore, to strike out the resolution giving the petitioners leave to withdraw their petition; and if his motion was agreed to, he should wish the committee to rise, and that the House would not act further upon it at present.

Mr. RUTLEDGE said, he, as well as the gentleman from Massachusetts, was dissatisfied with the report of the select committee. He thought the report ought to have stated that the peace of certain States in the Union had been much disturbed by applications of this kind. He had prepared a resolution to this effect, which he would read in his place. It was as follows:

"*Resolved*, That part of the memorial of the people called Quakers has a tendency to disturb the tranquillity of some of the States of the Union; that this House is not competent to act upon it, and therefore they have leave to withdraw their memorial."

There could be little difference of opinion on the assertion that the internal tranquillity of several States had been disturbed by these applications; and he believed there would be no difficulty in obtaining a majority of the House to declare it; as, if the Representatives of three or four States were to rise and declare the fact, it must have sufficient weight to carry a declaration of this kind. He had, however, mentioned the matter to some of his friends, and found it was not very agreeable to them, as they wished to get rid of the business without debate. But if the present motion were to obtain, he should afterwards bring forward this resolution.

The CHAIRMAN declared the motion of the gentleman from Massachusetts out of order.

The question on the resolution, as reported, was put and carried, there being 74 votes in the affirmative. The committee then rose, and the House concurred in the report.

**THURSDAY, February 15.**

***Fracas in the House.***

[About a quarter past eleven o'clock, after prayers, whilst the SPEAKER was in his chair, and many members in their places, but before the House had been called to order, and before the journal had been read, Mr. GRISWOLD entered the House, and observing Mr. LYON in his place (who was writing) he went up to him with a pretty strong walking stick in his hand, with which he immediately began to beat him with great violence. Mr. G.'s approach was observed by Mr. LYON, but before he could get from behind his desk he had received some severe blows. As soon as he got on the floor of the House he endeavored to lay hold of Mr. G. (having no stick or weapon in his hand) but he was prevented from doing so by Mr. G.'s falling back, and the continual blows with which he was assailed. At length getting behind the SPEAKER'S chair, Mr. L. snatched up the tongs from the fire; the combatants then closed and came down together upon the floor, Mr. G. being uppermost. The members in the House, who till now seemed to look on with amazement at the scene, without an attempt to put an end to it, got round the parties, and separated them, but not before Mr. L. had aimed a blow at Mr. G.'s head with the tongs, but which he parried off. The SPEAKER was now called upon to desire the members to take their seats and form the House. Whilst this was doing, the two enraged members met again without the bar, and, but for the doorkeeper and some gentlemen present, would have renewed the combat. Order having been obtained (at least as much as it was possible to obtain from the agitated state of the House) the Clerk proceeded to read the journal, and the business of the day was entered upon. It continued till one o'clock, when from the perturbation which was naturally occasioned by such a scene, and it being evident that business was very little attended to by a great part of the House, a motion for an adjournment was made and carried. It will be seen that no notice was taken of this proceeding in the course of the sitting.]

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**FRIDAY, February 16.**

***Case of Griswold and Lyon.***

Immediately upon the journals having been read,

Mr. DAVIS, of Kentucky, rose and proposed the following resolution for the adoption of the House:

*"Resolved, That Roger Griswold and Matthew Lyon, members of this House, for violent and disorderly behavior committed in the House, be expelled therefrom."*

Mr. NICHOLAS hoped the resolution would be permitted to lie on the table.

Mr. DAVIS saw no reason for delaying a decision upon this resolution. He thought the conduct of these gentlemen had been so grossly violent, and so notorious to most of the members of the House, that there need be no hesitation in deciding upon it. If gentlemen wished, however, to take the same course which had been adopted on a former occasion, he should not object to it, though he thought it unnecessary. It was needless, now to say any thing as to the necessity of preserving the dignity and honor of that House; enough had already been said, and he thought pertinently said, on a former occasion on this subject. And as he believed neither the dignity, the honor, or peace of that House could be preserved whilst these members remained in it, he hoped the House would be unanimous in voting their expulsion.

Mr. THATCHER did not see why the innocent should be punished with the guilty. The gentleman who brought forward this proposition, he supposed, did not wish this. From what he saw of the affray, he did not think Mr. LYON deserved to be punished for the part he acted. He certainly received a severe beating, but he appeared to be passive from the beginning to the end; and he did not think Mr. LYON ought to be expelled because he was beaten. As to any investigation of what happened yesterday, he did not think it necessary, as most of the members of that House were eye-witnesses to the fact. But the gentleman said there would be no peace until these members were expelled. He did not know from what he drew his conclusions. What was done yesterday was done before the House was in session; and it had already been determined that acts of violence committed without the bar, during a session of the House, are not causes of expulsion. He did not know, therefore, how gentlemen would support the doctrine that a member ought to be expelled for an act of violence done before the House was in session. It might be necessary, however, to investigate other facts connected with these.

Mr. J. PARKER seconded the motion for the expulsion of these members, because he believed there would be no peace in the House until they were expelled. He was sorry the gentleman from Massachusetts should have said he saw nothing but what was passive on the part of Mr. LYON. He himself saw more, and that gentleman must have seen it if he had his eyes about him. He said, that after the offending members had been separated Mr. LYON met Mr. GRISWOLD without the bar of the House and began to belabor him with his cane, when they were again separated. The attack of yesterday, Mr. P. said, at a time when the House ought to have been in session though it had not come to order, would fix an indelible stain upon it; and if these members were not expelled, no member could consider himself as safe in his seat. Such a transaction would certainly lower that House in the estimation of their constituents. He had even heard this morning, as he came to the Hall, persons in the street call out, "There is nothing to do in Congress to-day—there's no fighting going on!" In order to get rid of these reproaches, he hoped all parties would unite in expelling these members. If their constituents chose to send them back,

he hoped no member would associate with or take notice of them. And if a vote of expulsion should be agreed upon, he would afterwards move to expunge from the journals all the entries relative to these disgraceful proceedings.

Mr. NICHOLAS wished the motion to lie upon the table for the present, because he was not himself prepared to decide upon the subject; he wished, also, that whenever the motion was taken up, gentlemen might come with their minds determined upon it, so that a long debate might not be necessary. He therefore moved to postpone the consideration of this resolution to Monday.

Mr. GORDON wished to know what part of the resolution the gentleman from Virginia was not ready to act upon?

Mr. NICHOLAS did not understand the drift of the gentleman's question. If he meant to ask whether he (Mr. N.) disapproved of the vote which he had already given, he would answer him *he did not*.

Mr. J. WILLIAMS said he should approve of the motion for postponement, if it were made for to-morrow, instead of Monday; and he hoped the business would not only be taken up to-morrow, but be concluded before they rose. He had sat with great patience during the late debate, but he should be opposed to going into any further lengthy proceedings on so disagreeable a subject, which would prevent them from doing the business of the nation, for which they were sent.

Mr. NICHOLAS had no objection to make the question the order for to-morrow, if the House met.

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Mr. THATCHER observed, that he had before said that he had seen nothing on the part of Mr. LYON, in the affray of yesterday, which ought to subject him to expulsion; but the gentleman from Virginia (Mr. PARKER) said, that if he (Mr. T.) had had his eyes about him, he might have seen something for which he ought to be expelled. If, indeed, he had *eyes behind* he might have seen what he alluded to; but this not being the case, he did not see it. As far as the business respects Mr. LYON, some inquiry might be necessary, as all he saw was, that Mr. LYON suffered much, without any offence on his part. He thought, therefore, the business should be gone into, as on a former occasion, and that they ought to examine the subject with candor, and then they should doubtless decide upon it with propriety.

Mr. SITGREAVES was against the postponement, in order that a different course might be taken. He knew nothing in this case which distinguished it from a late case, and therefore could not see why the same course ought not to be pursued as was then pursued. He should therefore vote against a postponement, in order that the resolution might be referred to the Committee of Privileges.

Mr. HARPER inquired whether such a motion would not supersede a motion for postponement.

The SPEAKER said, it would.

Mr. HARPER then made the motion.

Mr. GALLATIN asked whether he understood the SPEAKER rightly, that a motion for a reference to a committee superseded a motion for postponement?

The SPEAKER said, it did.

Mr. NICHOLAS asked whether it would not then be in order to postpone the consideration of the subject?

The SPEAKER answered, it would.

Mr. NICHOLAS renewed the motion for a postponement till to-morrow.

Mr. HARPER, believing that it would be proper to refer this resolution to a committee, as before, especially as some of the facts did not pass within the view of the House, he should vote against the postponement—not because he wished to avoid a vote on the question; for, if it should be the opinion of the House that it ought not to go to a committee, he was perfectly ready to give a vote upon the question; but he thought it better that the business should have this course. With respect to any discussion being necessary upon this subject, he perhaps might think it necessary to make some observations upon it, when the question came before the House for decision; for, though some gentlemen might be endued with the happy faculty of doing every thing in an instant, he could not boast of possessing that faculty. But, even if he were not desirous of discussion for his own information, he wished it for the information of the public; and, notwithstanding all that the House had heard about a waste of public money and public time, he believed they should best serve the public by suffering the business to take the usual course.

The motion for a postponement was put and negatived.

Mr. SITGREAVES then moved that the resolution be referred to the Committee of Privileges.

Mr. HARPER moved that the committee have leave to sit during the session of the House.

Mr. THATCHER thought, as it was probable a number of members might be wanted to give evidence, the House had better adjourn, as on a former occasion, as it would not be proper to go on with business when so many members were absent.

Mr. T. CLAIBORNE hoped leave would not be granted for the committee to sit immediately. He wished them coolly to deliberate upon the business, which they could scarcely be expected to do, when their passions were so strongly affected as they must be at present.

The question for leave to sit during the session was put and carried—46 to 36.

Mr. HARPER moved that the committee be instructed to report to the House the evidence in writing, upon which they shall found their report.

Mr. KITTERA thought the facts were so notorious that there was no necessity for this instruction.

Mr. HARPER said if his friend from Pennsylvania could say that every body would be satisfied with the report of the committee without the evidence, he would not insist upon this motion. But if the evidence was not reported, how could he say that all the witnesses might not again be called before the House? It was his wish to prevent this.

Mr. J. WILLIAMS said there was a considerable difference between this transaction and the one lately under consideration. He thought in this case it would probably save much trouble to report the evidence.

Mr. BROOKS said it must be recollected that the gentleman from Virginia was not satisfied with the former report. He wished to hear the witnesses themselves; and if the evidence was to be reported, he did not suppose it would be satisfactory.

Mr. NICHOLAS seconded the motion, because it would be likely to shorten the business; but if, when the testimony came to be reported, there was any obscurity in it, he should feel it necessary to ask the witnesses questions by way of elucidation, as every man who was called upon as a judge, should be in full possession of every fact relative to the subject.

Mr. BROOKS said the gentleman who had just sat down, would have no difficulty in pointing out some obscurity, in order to furnish an apology for rehearing of the witnesses.

Mr. KITTERA said if to report the evidence would prevent the necessity of hearing the witnesses in the House, he should not object to it; but he believed this would not be the case.

Mr. VENABLE was before of opinion that it would have been best for witnesses to have delivered their evidence in writing. He hoped that course would now be taken, and then there would be no difficulty in reporting it to the House; and if it should be found necessary, in order to elucidate any part of it, to put any questions to the witnesses in the House, the business would be greatly facilitated and shortened by the evidence being reported.

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The question was put and carried.

Mr. OTIS believed that something further was necessary to be done in respect to the unfortunate business, which had already engaged the attention of the House. From what had happened in the view of the House, it appears that the parties are in the habit of conflicting with each other; and except they are restrained by some authority which shall be sufficiently imposing upon them, further violence may be expected. In order, therefore, to secure this House from future violations of its dignity and order, he proposed the following resolution for adoption:

"*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, be respectively required by the SPEAKER to pledge their words to this House, that they will not commit any act of violence upon each other during this session; and that if either refuse to make such engagements, the party refusing shall be committed to the custody of the Sergeant-at-arms, until he shall comply with this obligation."

Mr. SEWALL understood a motion had been agreed to in relation to the affair of yesterday, which might produce an expulsion of the members in question. He thought it would be better, therefore, to alter the wording of the resolution, and instead of "during this session," say "during the continuance of the examination of the business before the House."

Mr. SITGREAVES did not think any alterations were necessary. An expulsion of the members was a possible, but not a necessary result. If an expulsion does not take place, the resolution will remain in operation for the remainder of the session, which would be proper; and, if an expulsion took place, its operation would fall of course.

Mr. J. WILLIAMS thought it best to pass the resolution as it stood. If a similar resolution had been entered into on a former occasion, it would probably have prevented what had now taken place.

Mr. R. WILLIAMS called for the reading of the resolution which was passed on a former occasion. [It was read. It stated "that any personal contest between the members, before the House had come to a decision upon the business, would be considered as a high breach of privileges."] Mr. W. thought this resolution went as far as the House had a right to go. The resolution proposed by the gentleman from Massachusetts, went farther, he thought, than they had power to go. It went to imprison one or both of the parties, if he or they refused to comply with the request of the House. He had his doubts whether that House had the constitutional power to imprison a man for a crime, as the law only would do this. He thought a resolution, similar to that adopted on a former occasion, would be sufficient at present; and if the mover did not think proper so to alter it, he would himself move an amendment for this purpose.

Mr. OTIS flattered himself that his object would have met with the concurrence of all sides of the House, believing that all wished to prevent future violations of order and peace. With respect to the doubts of the gentleman from North Carolina, his politics seemed to be altogether a system of *doubts*. If this system was common, it would be extremely difficult to progress with business at all. He believed, on the present occasion, these doubts were groundless. When an act of violence was done in the view of the members of the House, they had certainly the power to obtain some security against a repetition of such violence. If this was not done, the presumption was, the business of the session might be continually interrupted; and had they not the right of securing the peaceful exercise of their legislative functions for the remainder of the session? He thought this could not be seriously doubted. With respect to the former resolution, if he had been in his place, he should have suggested its impropriety; for, by it, it seemed to be implied that, after the question was decided, though they could not do it before, the members in question would be at

liberty to commit any act of violence they pleased upon each other. They had seen the consequence. He hoped, therefore, the House would restrain these gentlemen in such a manner as that it may not be in their power again to interrupt their proceedings.

The question was then taken on the resolution, and carried by a large majority, there being 73 votes in favor of it.

The SPEAKER asked, whether it was the pleasure of the House that the Sergeant-at-arms should be sent for Mr. LYON?

Mr. SITGREAVES said it might not be convenient for Mr. LYON to attend the House; he asked whether the resolution might not be sent to him, and his answer be received in writing?

Mr. NICHOLAS supposed, that if both gentlemen prepared a declaration in writing, and presented it to-morrow, it would answer the purpose.

Mr. HARPER replied, the mischief intended to be guarded against might in the mean time be done.

Mr. GALLATIN said, he had just been called out by a member of the House, who had asked him whether he thought it would be proper for Mr. LYON to attend the House. He supposed, therefore, if the Sergeant-at-arms was sent for him, he would immediately attend.

Mr. HARPER hoped the Sergeant-at-arms would be sent.

The SPEAKER said, as soon as the Clerk had made a copy of the resolution, the Sergeant-at-arms would wait upon Mr. LYON with it.

Mr. LYON having entered,

The SPEAKER said, the members from Vermont and Connecticut being now in their places, he should proceed to read the resolution which had been entered into by the House. [He then read the resolution.]

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As soon as it was finished reading,

Mr. GRISWOLD rose and said, he should not hesitate to enter into the proposed engagement.

Mr. LYON also rose and said, he was ready, as it was the wish of the House, to agree to the proposition.

The SPEAKER said, then you do accordingly agree to this proposition?

Both answered, "I do agree."

## MONDAY, February 19.

### *Amy Dardin.*

Upon motion of Mr. T. CLAIBORNE, the following resolution was agreed to—45 to 40:

"*Resolved*, That a committee be appointed to bring in a bill for the relief of Amy Dardin."

[This claim has been long before Congress, and been several times the subject of discussion. It is for the value of the famous horse Romulus, the property of the husband of the petitioner, pressed into the service of the United States during the war. The case of the widow is evidently a hard one, and this is the second time a vote has been obtained in her favor, which has afterwards been reversed.]

The committee rose, reported their agreement to the three resolutions, and had leave to sit again. The House took up the two first, agreed to them, and directed the Committee of Claims to bring in a bill or bills accordingly. When the third resolution came to be considered, the yeas and nays were called for, and its adoption was strongly opposed by MESSRS. HARPER, NICHOLAS, and BAYARD, on the ground of its throwing open a door to every claim which had heretofore been determined as barred, as cutting up by the root all the acts of limitation; that it was also setting aside these laws in the most objectionable way, by inviting every person, who had an unsatisfied claim, to petition Congress for relief, which would of course engage much of their time. If the acts were to be set aside, it would be much better and less expensive therefore to authorize the proper department to settle these claims, than that the time of the House should be engaged in investigating and settling them.

On the other hand, its adoption was advocated by MESSRS. GALLATIN and T. CLAIBORNE. This was stated as a hard case; that this determination would not open the acts of limitation to any but such as Congress might deem extremely hard cases; that it would give the Treasury no power whatever to settle any claim: the power, therefore, could not be abused, except they themselves abused it; that whatever policy there might be in acts of limitation, they were certainly liable to strong objections; they knew they were honorably indebted a sum of money, but they determine not to pay it, merely because the paying it might render the accounts at the Treasury less simple, or because they would be liable to pay more than is convenient. This policy might be justifiable, but it bore very hard upon individual sufferers. It was argued, therefore, that without opening the acts generally, when a strong, unequivocal claim was presented, which was in the hands of the original holder, and where, of course, there could be no possibility of fraud, relief might and ought to be granted.

Mr. J. WILLIAMS was an enemy to acts of limitation, as he thought a debt once due must always be



due until paid; but he would either have them opened generally, or not at all.

The yeas and nays upon agreeing to this proposition for setting aside the act of limitation in this case were taken, and decided, yeas 35, nays 55, as follows:

YEAS.—David Bard, Lemuel Benton, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, William Barry Grove, Carter B. Harrison, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, James Machir, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Rutledge, jr., William Smith, Richard Sprigg, jr., Thomas Sumter, Abraham Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Thomas Blount, David Brooks, Nathan Bryan, Stephen Bullock, Dempsey Burges, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, Thomas Evans, William Findlay, Abiel Foster, Dwight Foster, Henry Glenn, Chauncey Goodrich, William Gordon, Andrew Gregg, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Jonathan N. Havens, Wm. Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Nathaniel Macon, Wm. Matthews, Daniel Morgan, Lewis R. Morris, John Nicholas, Harrison G. Otis, Isaac Parker, John Read, James Schureman, Samuel Sewall, William Shepard, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, Peleg Sprague, Richard Stanford, George Thatcher, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

Mr. HARPER then proposed the following resolution, which was agreed to:

*Resolved*, That the prayer of the petition of Amy Dardin ought not to be granted.

## **TUESDAY, February 20.**

### ***Case of Griswold and Lyon.***

Mr. VENABLE, from the Committee of Privileges, laid the following report upon the table, together with the evidence relative thereto:

The Committee of Privileges, to whom was referred a resolution in the following words: "*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, for violent and disorderly behavior committed in the House, be expelled therefrom," with instructions to report the evidence in writing, have, according to the orders of the House, proceeded to take the evidence, which they herewith report; and they report further, that it is their opinion that the said resolution ought to be disagreed to.

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## **THURSDAY, February 22.**

The usual time of calling the House to order being arrived, the Clerk desired members to take their seats; which being done,

Mr. KITTERA said, the SPEAKER had desired him to inform the House that he was so much indisposed as to be unable to attend the House to-day. Mr. K. suggested the propriety, therefore, of adjourning the orders of to-day till to-morrow.

Mr. J. WILLIAMS did not see a necessity for this. He thought the House might informally go into a Committee of the Whole on the report of the Committee of Privileges. He had seen this course taken in other Legislative bodies, and as it would be the means of saving a day, he hoped this mode would now be adopted.

Mr. THATCHER hoped gentlemen would not consent to go on with business in an informal manner, since it was evident they were sufficiently informal with all their forms.

Mr. HARRISON inquired if there was any probability that the SPEAKER would be able to attend the House to-morrow. If not, he should be for choosing a temporary Speaker.

Mr. KITTERA said, the indisposition of the SPEAKER was occasioned by a severe headache, to which he was subject; that it generally continued for six or eight hours, and afterwards he was perfectly well.

The question for postponement of the orders of the day till to-morrow was then put by the Clerk, and carried; and then the House adjourned till to-morrow.

## **FRIDAY, February 23.**

The bill providing for the widows and orphans of certain deceased officers, was read the third time, and passed.

### ***Revenue Statements.***

A communication was laid before the House by the SPEAKER, from the Secretary of the Treasury, enclosing sundry documents prepared by the late Commissioner of the Revenue, in consequence of a resolution of the House of the 6th of January, 1798, requiring to be laid before the House every session, within ten days after its meeting, a statement of the net produce of the internal revenues, the salaries of the Collectors, &c., for the year preceding. The Secretary apologizes for not having made the communication sooner. It was ordered to be printed.

### *Case of Griswold and Lyon.*

The House proceeded to consider the report of the Committee of Privileges, of the twentieth instant; and the same being again read in the words following, to wit:

The Committee of Privileges, to whom was referred a resolution in the following words, to wit: "*Resolved*, That Roger Griswold and Matthew Lyon, members of this House, for riotous and disorderly behavior, committed in the House, be expelled therefrom," with instructions to report the evidence in writing, have, according to the order of the House, proceeded to take the evidence, which they herewith report; and they report further, that it is their opinion that the said resolution be disagreed to.

Mr. DAVIS said he hoped the House would disagree to the report of their Committee of Privileges; after this was done, the resolution could be altered in such a manner as gentlemen might think proper.

Mr. DENT called for the yeas and nays. Agreed to be taken.

Mr. SITGREAVES said there were many considerations which should incline the House to come to a decision upon the present business without entering into any unnecessary discussion; and there were others which should lead them to avoid coming to an immediate decision. He should, therefore, move that the further consideration of this subject be postponed until the 4th of March, 1799.

Mr. NICHOLAS called for the yeas and nays upon this question; which being agreed to, were taken, and stood—yeas 38, nays 53.

The motion for postponement being lost, the question on agreeing to the report of the committee recurred.

Mr. BAYARD believed it would not be in order to call for a division of the question. The resolution implicated two persons, which he thought improper. If the report of the committee was, however, disagreed to, he supposed it would then be in order to move for a division of the question. He should, therefore, vote against the report, as he wished the cases to be separately considered, as they stood on distinct ground, and were not attended with the same circumstances; and, reasoning from analogy, he knew of no instance in a court of justice, where two persons had ever been included in the same charge when their crimes were different. If the situation of both these gentlemen had been the same, there might have been propriety in coupling them together; but as this was not the case, he was opposed to taking an opinion upon both together.

Mr. McDOWELL thought it would be proper to take the same course in this business as was taken in a former case. He moved, therefore, that the report be read a second time, for the purpose of committing it to a committee of the whole House.

Mr. GORDON was opposed to this mode of proceeding. Every one knew the question, and were as well prepared to decide upon it now, as they would be after going into a committee upon it.

Mr. GILES thought it would comport more with the dignity of the House to decide this business without going into a Committee of the Whole, as he believed every one had made up his mind upon it. If gentlemen intended by the course heretofore taken to raise the dignity of the House, he thought they had deceived themselves; for he believed the House was never in a less dignified attitude than during that discussion.

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Mr. McDOWELL thought the mode he had pointed out necessary, for the sake of uniformity; but, as other gentlemen seemed to think it unnecessary, he would withdraw his motion.

Mr. R. WILLIAMS wished to know whether it would be in order to amend the report of the Committee of Privileges, or to suggest the propriety of disagreeing to it, for the purpose of substituting a different punishment from that proposed, viz: that the offending members should be reprimanded by the Speaker in the presence of the House? He believed that a punishment of this kind would satisfy many gentlemen who did not wish to expel the members, but who, at the same time, did not wish they should go unpunished.

The SPEAKER said that motion would be in order after the report of the committee was decided upon.

Mr. GALLATIN remarked, that if the report was agreed to, the resolution for an expulsion would of course be negatived, and then any other proposition would be in order; and, on the other hand, if the report was disagreed to, the resolution would be before them, and open to amendment. Mr. G. said he rose to make an observation upon what fell from the gentleman from Delaware (Mr. BAYARD.) That gentleman had said he would vote against the report, because he wished to distinguish between the two members. The reason which he gave, though he might have good reasons for his vote, did not appear to him to be correct. That gentleman seemed to suppose that the facts for which the two members were to be expelled, were facts committed at different

times, and of a different nature; whereas the facts for which both were proposed to be expelled, were offences of the same nature, and committed on the same day. What related to the previous conduct of the member from Vermont, was not now under consideration. In order to have that conduct before them, it would be necessary that a reconsideration of it should be moved by a member who voted against that member's expulsion, and seconded by another member who voted on the same side of the question. The argument of the gentleman from Delaware, therefore, did not apply. He said he should himself vote in favor of the report of the Committee of Privileges. He was against expelling either of the gentlemen.

Mr. DANA agreed with the gentleman last up, in his conclusions; but he did not seem rightly to have understood the argument of the gentleman from Delaware. If the gentleman from Pennsylvania was acquainted with legal principles, with established principles relative to punishment, he must know that no persons can be charged jointly with an offence, except jointly guilty, and except they had mutually agreed to commit the offence. The resolution, in its present form, therefore, offended against established maxims of propriety.

Mr. BAYARD said, the statement of the gentleman from Pennsylvania was not correct. He had stated that the offences of the two members were the same in circumstances, and committed at the same time. He apprehended the two cases were very distinct; as, by the depositions before the House, it appeared that the offence of the member from Connecticut was committed *before* the House was called to order, and that the offence of the member from Vermont was committed *after* the House was called to order. The argument most depended upon in a former case, against the expulsion of the member from Vermont, was that which insisted that the act of violence complained of being committed when the House was not in session, was not a cause of expulsion. If this argument had weight at that time, it ought also to have weight in the present case. It would, therefore, be the height of injustice to blend the two cases together; since there might be cause for expelling one member and not the other.

The SPEAKER observed that every thing which had been said with respect to a division of the question was out of order, as it could not be divided. He would also remark, in order to shorten the debate, that the House was not called to order when the stroke was made by the member from Vermont upon the member from Connecticut without the bar of the House.

Mr. HARPER asked, if the report of the committee should not be agreed to, whether the resolution might not then be agreed to?

The SPEAKER replied, it could not be divided; but a separate resolution might be brought forward.

The question on agreeing to the report of the committee, which recommended a disagreement to the resolution for an expulsion of the two members was then taken, and stood—yeas 73, nays 21.

The resolution for an expulsion having been disagreed to,

Mr. R. WILLIAMS proposed a resolution in the following words:

*"Resolved*, That Roger Griswold and Matthew Lyon, for riotous and disorderly behavior in this House, are highly censurable, and that they be reprimanded by the Speaker in the presence of this House."

Mr. HARPER moved the previous question upon this resolution. He did it, he said, upon this ground. The House had just decided, and they had lately decided in another instance, that disorderly conduct shall not be punished by expulsion; and it was his opinion that no less punishment than expulsion ought to be inflicted, as he was unwilling to diminish the reprehensive power of the House, by inflicting what he thought inadequate punishment for offences of this nature. If there were any gentlemen who thought this conduct excusable, and that it ought not to be punished, they would, of course, vote in favor of the previous question; and those who thought with him, that both ought to be expelled, would also vote in favor of it.

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Mr. NICHOLAS called for the yeas and nays upon this question. Agreed to be taken.

Mr. GALLATIN said, by the gentleman from South Carolina having moved the previous question, he had excluded any discussion upon the merits of the main question. Mr. G. wished some reasons might be given why the main question ought not to be put. Those given by the gentleman from South Carolina were applicable to the resolution itself: they were reasons why he should vote against the resolution, but they did not strike him as reasons why the question should not at all be taken.

The previous question was then put in this form: "Shall the main question (*viz*: the resolution for reprimanding the offending members) now be put?" And the yeas and nays were taken, and stood—yeas 47, nays 48, as follows:

YEAS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findlay, John Fowler, Nathaniel Freeman, jun., Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, John Nicholas, Thompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, Thos. Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, jun., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thomson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

## MONDAY, March 5.

### *Diplomatic Intercourse.*

[After a protracted discussion the question was taken on Mr. Nicholson's amendment, to wit, to limit the ministers of the highest grade to the two Courts of London and Paris, and it was negatived—52 to 48.]

A motion was then made for the committee to rise and ask leave to sit again, which was negatived.

The bill was proceeded with.

Mr. S. Smith moved, to strike out certain words, and to insert others to this effect:

"That the PRESIDENT OF THE UNITED STATES shall not allow to any Minister Plenipotentiary to France, Great Britain, or Spain, more than \$9,000 per annum, nor to any other Minister Plenipotentiary more than \$6,000."

This amendment was negatived, there being only 48 votes in its favor.

The blanks in the bill were next to be filled; the first, which was the permanent allowance, was filled with \$40,000; the next, which was an extraordinary appropriation for this year, with \$28,650. Before the latter sum was agreed upon,

Mr. LIVINGSTON inquired whether the sum of between two and three thousand dollars, which he thought had been lavished away, said to be expended on persons taking leave from this country, was included in the incidental expenses which were contained under this head? He thought such an expenditure of money forbidden by the constitution.

Mr. HARPER believed the incidental expenses mentioned in the estimate were expenses of our Ministers abroad.

Mr. NICHOLAS understood that three Secretaries were allowed the mission at present in France. He thought this was as novel as it was unnecessary; as he believed one Secretary was sufficient for the whole. The United States had employed a number of missions at different times, but never allowed more than one Secretary to each. He had thought the law would not have warranted the practice; but on examining it, he supposed it did.

Mr. HARPER said every Minister employed was entitled to a Secretary; the PRESIDENT had accordingly appointed one to each, and he could not see upon what ground the House could object to appropriating for their salaries.

Mr. NICHOLAS answered, that as the law admitted of it, he should not object to the appropriation but he should move an amendment to prevent more than one secretary to a mission in future.

The committee then rose and reported the bill with the amendments; which being taken up in the House and agreed to, Mr. NICHOLAS renewed his amendment to limit the salaries of Ministers Plenipotentiary to London, Paris, and Madrid, to nine thousand dollars a year, and all others to four thousand five hundred dollars, and called the yeas and nays upon it, which were taken and resulted, yeas 48, nays 52.

Mr. S. SMITH then renewed his motion for limiting the salaries of Ministers to London, Paris, and Madrid, to nine thousand dollars, and others to six thousand dollars, and called the yeas and nays upon it, which were taken, and were exactly the same as upon the former question.

Mr. NICHOLAS then made his motion to confine future missions to one Secretary, which was negatived—50 to 45.

The bill was then ordered to be engrossed for a third reading to-morrow.

## MONDAY, March 19.

### *Relations with France.*

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The despatches from the Envoys Extraordinary of the United States to the French Republic, which were mentioned in my Message to both Houses of Congress, of

the fifth instant, have been examined and maturely considered.

While I feel a satisfaction in informing you that their exertions for the adjustment of the differences between the two nations have been sincere and unremitting, it is incumbent on me to declare that I perceive no ground of expectation that the objects of their mission can be accomplished on terms compatible with the safety, honor, or the essential interests of the nation.

This result cannot, with justice, be attributed to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests for the preservation of peace. Knowing it to be my duty, and believing it to be your wish, as well as that of the great body of the people, to avoid, by all reasonable concessions, any participation in the contentions of Europe, the powers vested in our Envoys were commensurate with a liberal and pacific policy, and that high confidence which might justly be reposed in the patriotism, abilities, and integrity, of the characters to whom the negotiation was committed. After a careful review of the whole subject, with the aid of all the information I have received, I can discern nothing which could have ensured or contributed to success that has been omitted on my part; and nothing further which can be attempted, consistently with maxims for which our country has contended, at every hazard, and which constitute the basis of our national sovereignty.

Under these circumstances, I cannot forbear to reiterate the recommendations which have been formerly made, and to exhort you to adopt with promptitude, decision, and unanimity, such measures as the ample resources of the country afford, for the protection of our commercial and seafaring citizens; for the defence of any exposed portions of our territory; for replenishing our arsenals, establishing foundries and military manufactures; and to provide such efficient revenue as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce.

The present state of things is so essentially different from that in which instructions were given to collectors to restrain vessels of the United States from sailing in an armed condition, that the principle on which those orders were issued has ceased to exist. I therefore deem it proper to inform Congress that I no longer conceive myself justifiable in continuing them, unless in particular cases, where there may be reasonable ground of suspicion that such vessels are intended to be employed contrary to law.

In all your proceedings it will be important to manifest a zeal, vigor, and concert, in defence of the national rights, proportioned to the danger with which they are threatened.

JOHN ADAMS.

UNITED STATES, *March 19, 1798.*

This Message was referred to the Committee of the Whole on the state of the Union.

**FRIDAY, March 23.**

*Georgia Limits.*

**MISSISSIPPI TERRITORY—SLAVERY.**

Mr. J. WILLIAMS called for the order of the day on the bill for organizing and disciplining the militia of the United States.

Mr. GALLATIN thought it better that the House should again go into a Committee of the Whole on the bill for an amicable settlement of limits with Georgia, and for the erection of a government in the Mississippi Territory, as that subject had already undergone some discussion, and the bill had been reported with the information to obtain which it had been committed.

The latter business was preferred, and the House accordingly went into a Committee of the Whole on the subject; when Mr. MILLEDGE'S amendment being under consideration, for adding to the section for appointing a provisional Government in the Natchez country, "after the consent of the Legislature of Georgia shall have been obtained,"

Mr. MILLEDGE observed, that the select committee had now reported all the documents on which the United States claimed a right to this territory. As to the title of Georgia, he should not enter into an inquiry as to that. He would only remark, that the State of Georgia was as tenacious of her rights as any State in the Union. But he thought it would not be improper to examine the pretended claim of the United States to this country. Looking into the journals of the Senate, he found that on the 3d of March, 1795, a resolution was passed directing the Attorney General to inquire into and make a report on the subject of the title of the United States to land in Georgia. No doubt the Attorney General not only examined the records of the State of Georgia, but those of the United States, and obtained all the information which he was able to do in the United States; but not finding sufficient ground upon which to found a title, he applied to Mr. Bayard, our Commissioner in London, who obtained a certificate on the subject from a Mr. Chalmers, Secretary to the Board of Trade and Plantations. Twelve months after he was directed to do so,

the Attorney General made a report on the subject; but none of the documents which he reported went to establish the claim of the United States; nor any thing which tends to show that a cession of West Florida was ever made. But he now found among the papers got from the Senate, a letter addressed to Mr. Read of the Senate, from Mr. Livingston of New York, informing him that he encloses an extract from the instructions given by the King of Great Britain to Governor Chester. But Mr. Livingston was not known as an official character; and this document was neither official nor certified. Yet this is the ground upon which the United States claim this tract of country. Before the General Government proceeded to erect a temporary government, it ought to have better information with respect to the nature of its claim; for, to attempt to establish a government without the consent of Georgia, he thought would be stepping beyond the constitution, two clauses of which he quoted. He hoped the general powers placed in Congress for the defence of the country would not be resorted to in order to sanction the proceeding. It was said that the inhabitants of the district of country alluded to were in a situation which called for immediate attention. He allowed that it would be proper to pay early attention to them; but he thought, inconvenient as it might be, the erecting of a government might be deferred until the consent of the Legislature of Georgia could be obtained. It ought to be remembered that the State of Georgia is a member of the Union, and that it is her interest to make the cession, and he had no doubt she would do so. The convention of that State meet in May, and if application was made to them, he had no doubt the Legislature would be called together, and consent might be obtained by the month of July. He was confident the State of Georgia is desirous of promoting the interests of the United States, and that she is firmly attached to the Government; all its regulations had been constantly carried into effect there; and her consent to the establishment of a provisional government being obtained, every difficulty would be obviated.

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Mr. HARPER did not feel any anxiety to question the desire of the State of Georgia to promote the interests of the United States, and he was glad to be informed by her Representative, that she was so well disposed to the General Government, to which assertion he gave the fullest credit. He, therefore, should not oppose the motion of the gentleman on the ground that the State of Georgia would be likely to throw any obstacles in the way of the proposed temporary government; and he should be far from supposing, that, by the erection of such a government, the United States would assume an extra-judicial right to the territory. He was of opinion that the United States possessed the right to it, and that the most undeniable evidence of the right existed; but that evidence was not now before the House, and if it were, they were not the proper body to decide the question. He believed the amendment ought to be rejected on the ground of policy. The bill went to provide a temporary government, but contained an express clause that the establishment of this government shall not affect the rights of Georgia with respect to her right of the jurisdiction or soil of this territory—consequently, the fears of the gentleman are groundless in this respect. What, then, is the nature of the amendment? It is to prevent the erection of a temporary government in a district of country containing upwards of 5,000 souls, lying far beyond the ordinary jurisdiction of any State, with an immense wilderness intervening, in which are two nations of Indians, and in the neighborhood of the territory of a foreign nation, with whom, though we are at present at peace, when we recollect the connection subsisting between that nation and another with whom we have differences of a serious nature, we cannot reckon upon as lasting. Yet this remote and vulnerable corner of the Union is to be left defenceless for an indefinite period of time, lest we should possibly give umbrage to the State of Georgia, by providing a temporary government there before the dispute on the subject of limits is settled. And whatever may be the good disposition of Georgia towards the United States, it would require considerable time to obtain the consent proposed. Their Legislature do not meet till next winter. It was true, as had been stated, that their convention met in May, and they might, if they thought proper, call an extraordinary meeting of the Legislature; but this could not be relied upon. Besides, he saw no necessity for so much punctilio in this case, for if any State were to suffer a part of its territory, within its ordinary jurisdiction, to lie in a defenceless state, the General Government would be warranted in stepping in to defend it, and certainly they might do it in a case like the present, where no jurisdiction is exercised. And if this was not done, the petition of these people set forth, that however unwilling they should be to do so, they should be obliged to pass over to the Spanish dominions.

Mr. H. said, he did not wish to have touched upon the question of right; but as the gentleman from Georgia had said we had none, he felt himself obliged to say a few words upon that point. He allowed the committee had not before them evidence of the right which would be admissible in a court of law; but though it were not such as would be admitted in a court of law, had it therefore no weight? It was at least equal to what was every day received by the committees of the House. The question was, whether the papers before them afforded reason to believe that legal evidence of the title did exist? It was a copy of a commission and instructions given by the King of Great Britain to Governor Chester, of West Florida, in the year 1770, furnished by the gentleman who was Secretary to the Governor at that time, and whose duty it was to keep the records of that Government. But the gentleman from Georgia said, search had been made in the offices of the British Government for the original, of which this paper was a copy, and it could not be found. But this was no proof it did not exist. If it does exist, legal evidence may be obtained from it, and this paper shows that the Natchez country was included within the territory of West Florida, and that it ceased in the year 1770 to be a part of Georgia. He believed, however, this question ought not now to be acted upon; but that from necessity, and the exigencies of the case, a temporary government ought immediately to be provided for this district of country, and afterwards settle the point of right with Georgia by negotiation; and if it was found in the end that the United States had no title to it, the Government which had been established could be withdrawn.

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But it was stated that the Legislature of Georgia would readily consent that the United States should become possessed of this country. But what were the terms upon which they proposed to cede it? They required, as one of the conditions, a million and a half of dollars in six per cent. stock, and as another (which was infinitely harder, since it might not be in our power to comply with it, as it depended upon the will of the Indians) that the United States will guarantee the relinquishment of the Indian claim to the land on the east side of the Chatahoochee, within a certain number of years. There is little hope, therefore, that the State of Georgia will propose any terms to which the United States can agree, as it had been seen that the Legislature of that State had rejected a bill by a great majority, which proposed the price to be one million of dollars with the other condition. Of course it would be very imprudent to rest the establishment of a government in this quarter upon an agreement to terms like these.

Besides, the amendment would affect the right claimed by the United States. To wait for this consent would be tantamount to confessing we had no right, and arm Georgia with a strong weapon against us in the final settlement.

Mr. H. contended that there was nothing in the constitution which could prevent the proposed measure, since it was absolutely necessary to preserve the people from falling into anarchy, and to prevent a foreign Government from putting arms into their hands. It was also a quarter of the Union which it was necessary to preserve, if we wished to secure the free navigation of the Mississippi, which we had lately obtained by the Spanish treaty; for if this country were invaded by the Indians, or involved in civil war, we could not have the benefit of the navigation of that river. He hoped, therefore, when so many considerations were opposed to it, the amendment would be disagreed to.

Mr. NICHOLAS understood from the gentleman from South Carolina, that it was not intended to insist upon the title of the United States to the territory in question; and if they were not ripe to decide that the land is the property of the United States, he thought they ought not to establish a Government there without paying some respect to the rights of Georgia, by obtaining her consent, as it might prevent that amicable settlement of which we had at present the prospect. If that State set the value upon the land which had been mentioned, would it not excite the utmost jealousy in that country to take forcible possession of it? To do this would certainly be to establish an influence in favor of the United States, which would be fatal to the claim of Georgia. No argument had been adduced to show the right of the United States to this territory, but merely to show the convenience of the measure. The gentleman from South Carolina might as well say that a certain district in Virginia is not so well governed as it might be, and, as the people would be happier under the Government of the United States, propose to take possession of it. But it was said Georgia had not begun to govern this territory. Neither have the United States. She may, for aught we know, be preparing to do it now. He thought there was not a shadow of pretence for taking the course proposed, without first consulting the Legislature of Georgia. He hoped the amendment would be agreed to.

Mr. J. WILLIAMS said it appeared to him, that if this amendment were to prevail, the bill might as well be voted out altogether. The bill had two objects, viz: a settlement of limits, and the fixing of a temporary government. It was clear to him, from the papers before the committee, that the United States had a clear title to the country in question, and, if this was not the case, there was a saving clause in favor of the Georgia claim. He thought that State ought to be happy at the idea of the United States fixing a government there, as it would assist them in their defence against the Indians. If gentlemen turned to the acts of Congress, it would be found what a vast expense the United States had heretofore been put to in defending the frontier of that country. He thought that State had been dealt with in a very favorable manner. It was not long since \$100,000 were paid to their militia for defending their frontier. He complimented the gentleman from Georgia for having advocated so ably the cause of his State. But he thought that State ought to come forward and show what title she had to the country. It had been ceded to the United States by the Spanish Treaty, and the inhabitants there had a claim upon the General Government for protection, and surely if the State of Georgia for ever refused to give its consent to a government being established there, they were not for ever to be without government. The people there had petitioned Congress for a government, of which doubtless the State of Georgia was acquainted; and they ought to come forward in the business. Their silence proved to him that they had no title to that country. Mr. W. referred to the manner in which other cessions had been made to the Union, and said he thought Georgia ought to rejoice at the proposed establishment, as it would not only be benefiting that State, but the Union at large.

Mr. MACON said if the bill was intended to be conformable to the title, the amendment ought certainly to be agreed to; as, if the United States undertook to establish a government at the Natchez, without the consent of Georgia, it could not be said to be amicably done. This, he said, was neither the proper time nor place of deciding to whom this territory belongs. The great object ought to be to get a government there, and not to talk about what had been done for Georgia. And if the consent of Georgia could be obtained previous to the establishment of this government, it was certainly desirable that it should be obtained. This would not injure the claim of either. When this was done, some mode might be agreed upon by which the dispute at present subsisting, might be settled. This course would prevent any difficulties, and the consent might be obtained by the time the government could take effect.

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Mr. OTIS said if the object of the present bill, could be obtained in a mode which would preserve the rights of all parties as they at present stand, such a course would be preferable to that which should appear to relinquish the right of one of the parties. It struck him that this might be effected by the bill as it now stands. The United States assumed their right to the land, yet they

do not say they mean to turn a deaf ear to the claim of Georgia. But, if the amendment were adopted, it would go to relinquish the title of the United States, and this, he thought, would be an excess of complaisance to the State of Georgia. The only plausible reason given in favor of the amendment was, that if the bill passed without it, it would give offence to, and excite jealousy in, the State of Georgia. But how? Because Congress passes an act to settle the interfering claims, and directs the appointment of commissioners to give them a compensation for what we might take without it? Or, because we say we will enter upon the territory, to which we always laid claims, in order to preserve peace and order among the inhabitants, and to secure it against the attack of the Indians or of a foreign power? Gentlemen seem to take it for granted that Georgia has possession of this territory; whereas those who oppose the amendment, contend it is a vacant possession, and that we have a right to take possession of it, to hold it, not until an army is raised to take it from us, but until the legal question of right shall be decided. And it could not be said that there was any thing offensive in this. If a man, for instance, were to enter upon a piece of land, and say he would never give it up until he was driven from it, it would certainly be an act of violence; but if he enter upon it only to take care of it, until a legal decision can be had as to his right, such an act was perfectly justifiable; and this was intended in the present case.

Mr. KITTERA hoped, if the bill passed at all, it would be without the amendment. This territory was never yet governed either by the United States or Georgia, but had been ceded to the United States by Spain, in our late treaty with that power, and we ought to retain possession of it until the title to it was clear. In this view of the subject, he could not see how the State of Georgia could take offence at our holding the territory until the existing dispute was settled.

Mr. BALDWIN said it was to be regretted, as this was the last instance in which this question of cession could be presented to Congress, that the situation of the persons settled upon this territory was such as should seem to constrain gentlemen to depart from the course of their former proceedings on this subject. He was fully impressed with the situation of that people; but he thought little delay would be occasioned by the proposed application to the State of Georgia; nor would that consent weaken, as had been suggested, the title of the United States. Or, if there was any force in the objection, it might be guarded against by adding a few words in the section which speaks of preserving the claim of Georgia as it now stands.

Mr. B. said, gentlemen who had turned their attention to the map, would find that the territory in question is situate at the south-west corner of the United States; the southern boundary is latitude 31, and the western boundary the Mississippi, which is also the boundary of the United States. Its extent is about 280 miles north and south, and coming this way, about 400 miles. That part upon which this bill is bottomed, is little more than one-third part of the whole of that territory. The United States now reckon latitude 32-1/2 as the boundary of Georgia; but in the treaty, and till very lately, it was always reckoned to be 31, which is also the boundary of the United States. This was, at any rate, a new discovery—the official documents in support of which he had not seen. It was now supposed that West Florida extends to latitude 32-1/2, and not to 31, which is one degree and a half more than formerly supposed. If this were so, he wondered it had never before been discovered by England or Spain. Why was the boundary of the United States always fixed at 31? He feared, that since it became our interest to extend the boundary, we had suffered that interest to color our judgment. The instructions drawn out for our Minister by a former Secretary of State were, "you are to contend for latitude 31." The ground upon which he had stated this, Mr. B. thought irresistible, and it was thought we might risk a war upon it. Besides, this bill would not cure the evil for which it was intended. There might be inhabitants still further north; this bill provides only for such as are settled within what had been called the Province of West Florida. Mr. B. said, he had never seen the documents which authorized this extension. He had, indeed, seen the remarks of Mr. Chalmers, who, he believed, was Secretary to the Board of Trade and Plantations in London; but he believed he had drawn what he had said from the same document which was now reported, viz: the extract from the copy of the instructions said to have been given to Governor Chester; but the order of King and Council for extending it, the Attorney General says, in page 11th of his report, is not to be found.

Gentlemen had said, why does not the State of Georgia manifest a disposition to make some arrangements respecting the territory in question. They had done so. After the Revolutionary war in 1783 or 1784, when there was an expectation that the forts would have been evacuated, they laid out a county there, and all the titles were declared good, and where there was no other title occupancy was declared to be sufficient, and warrants were to be issued accordingly. When he first came to attend his duty in Congress, the Minister from Spain arrived about the same time, when he put in the claim of Spain to this territory, which prevented any thing further from being done; and as soon as it was found that the arrangements made by Georgia gave umbrage to the Spanish Government, they were given up.

In the year 1788, the State of Georgia passed an act for making the cession of this territory to the United States. This act Congress referred to a committee, which reported that Government ought not to accept of the cession on the terms proposed. He believed the same disposition to make the cession which always had existed, now existed. He believed the disposition of the government of Georgia was as favorable to the interests of the United States as that of any other State. He did not rise to speak their praises; but he could not sit to hear them blamed without notice.

If the proposed government was proceeded with without the consent of Georgia, it would be a dereliction of principle. He thought some sort of regulation might be made among the people for their own government, until Georgia was applied to. This was not a new case. There had been great settlements in several parts of the country long before any government was provided for them. Mr. B. said, he did not mean to undervalue the claim of the United States; they had always



a claim in every case of cession, but he hoped, except there was an absolute necessity for it, the usual course of proceeding would not be departed from.

Mr. GORDON said, the gentleman from Georgia complained that a different course was proposed now to be taken than had been adopted heretofore. In answer to this, it was sufficient to say, that where the circumstances of cases differed, different courses were necessary. With respect to the merits of the bill, he thought it stood right at present. The situation of the people in the district alluded to, was such as required immediate attention. If gentlemen were not convinced of this, he saw no necessity for going into the business before the subsisting dispute between Georgia and the United States was settled. He believed, however, there was no doubt of the fact; and surely the gentleman from Georgia would not wish that these people should live under a military government for any length of time. Being satisfied of this point, he wished the bill to pass without the amendment, as that might defeat altogether the purpose of the bill. The claim of Georgia he looked upon at least as doubtful; and as he considered the United States as bound to protect all its citizens, he thought they would not be justified in returning these people for answer, "we cannot attend to your wants until we have settled our dispute with Georgia." Georgia might refuse to negotiate the subject, and by that means protract the business in a manner which would be very inconvenient, and perhaps drive the people under another government. Besides, if Georgia should refuse its consent to the establishment of a government in that quarter, it would, nevertheless, be proper to establish one. The United States, Mr. G. said, came into possession of this territory by treaty. But suppose it was now in possession of a foreign power, would Georgia attempt to drive them from it? Certainly not. It would amount to the making of war on a foreign power. Suppose Georgia had a title to this territory, had not the United States the power of depriving Georgia of it? Suppose, in their treaty with Spain, the United States had surrendered to Spain one-half of this land, or the whole of it, Georgia would have been bound by such an act; and having got this territory by treaty, they had certainly a right to establish a provisional government over it, until the dispute, as to the title, was settled.

The question of this amendment was put and negatived by 46 to 24.

Mr. THATCHER rose and said, he should make a motion, touching the rights of man, by moving to strike out the excepting clause in the 3d section of the bill. [It appears that in the ordinance establishing a government in the North-western Territory, slavery is expressly forbidden, and this section of the bill directs that a government similar in all respects to that established in the North-western Territory shall be established in the Mississippi Territory, except that slavery shall not be forbidden.]

Mr. HARPER did not believe his friend's motion would be a proper mode of supporting the rights of man. In the North-western Territory the regulation forbidding slavery was a very proper one, as the people inhabiting that part of the country were from parts where slavery did not prevail, and they had of course no slaves amongst them; but in the Mississippi Territory it would be very improper to make such a regulation, as that species of property already exists, and persons emigrating there from the Southern States would carry with them property of this kind. To agree to such a proposition would, therefore, be a decree of banishment to all the persons settled there, and of exclusion to all those intending to go there. He believed it could not, therefore, be carried into effect, as it struck at the habits and customs of the people.

Mr. VARNUM did not know that the gentleman from South Carolina wished to promote the rights of man. His observations showed, at least, that he did not wish to support the rights of all men; for where there was a disposition to retain a part of our species in slavery, there could not be a proper respect for the rights of mankind. It was true that this kind of property is held in the Southern States, because they cannot, consistent with the safety of the people of those States, liberate them on account of their very great numbers. But they considered it as a great burden to be obliged to hold them. He hoped, therefore, Congress would have so much respect for the rights of humanity as not to legalize the existence of slavery any farther than it at present exists. He believed the gentleman from South Carolina was mistaken in saying that such a regulation would oblige all the inhabitants settled in this territory to remove. The provision need only extend to the forbidding of slaves being taken there. What, said he, is the situation of the North-western Territory at this time? Land there is worth more than in some of the old settled States; and he believed this high price of land, and prosperous condition of the country, was entirely owing to the absence of slavery. And if the Southern States could get clear of their slaves, the price of their land would immediately double. At any rate, he hoped the United States would prevent an increase of this calamity; for he looked upon the practice of holding blacks in slavery in this country to be equally criminal with that of the Algerines carrying our citizens into slavery.

Mr. RUTLEDGE wished the gentleman from Massachusetts would withdraw his motion, not from any apprehension he had that it would obtain; but he hoped that he would not indulge himself and others in uttering philippics against a practice with which his and their philosophy is at war. He submitted to the gentleman's candor whether it was proper, on every occasion, to do this—to bring forward the Southern States in an odious light, or to give his neighbor and colleague an opportunity of bringing them forward, and comparing them with Algerines! He thought propriety and decency towards other members required that such language should be checked. He believed, if his friend from Massachusetts had recollected that the most angry debate which had taken place during this session was occasioned by a motion on this subject, he would not have brought forward the present question. One gentleman says, you call these men property; another, you hold these men in chains; a third, you violate the rights of man! And are not these men property? Do not the people in this territory hold them as such? Did they not hold them under the Spanish Government? And must we thus address these people: "We have made a treaty which

puts you under the mild government of the United States, but we must take from you your property; or rather, we must set your blacks at liberty to cut your throats. The rights of man was the watch-word of the day, and Congress have determined that you shall not possess this property. They cannot as yet do slavery away altogether—the day is not yet arrived; but they have determined it shall not exist in the Mississippi Territory."

These, said Mr. R., are not mere speculative opinions. They lead to more mischief than gentlemen are aware of; and he trusted if the gentleman from Massachusetts could be convinced that the discussion of such questions as the present did much mischief in certain parts of the Union, he would not bring them forward. He hoped he would withdraw the present motion.

Mr. GORDON thought that when the gentleman from Massachusetts recollected that, by the establishment of this government, the United States do not establish their exclusive right to this territory, he would consent to withdraw his amendment, as that went to say that we had the absolute right of jurisdiction, and were determined to exercise it; and in making a difference between the ground on which property was held there from that on which it was held in Georgia, they would militate against the 5th section of the bill.

Mr. OTIS hoped his colleague would not withdraw his motion; and the reason why he wished this was, that an opportunity might be given to gentlemen who came from the same part of the Union with him to manifest that it is not their disposition to interfere with the Southern States as to the species of property in question. With respect to the existence of slavery, the House had often heard gentlemen, who are owners of slaves, declare that it is not their fortune, but their misfortune that they possess them, but who still keep them, and claim the right of managing them as they think proper. He thought it was not the business of those who had nothing to do with that kind of property to interfere with that right; and he really wished that the gentlemen who held slaves might not be deprived of the means of keeping them in order.

If the amendment prevailed, it would declare that no slavery should exist in the Natchez country. This would not only be a sentence of banishment, but of war. An immediate insurrection would probably take place, and the inhabitants would not be suffered to retire in peace, but be massacred on the spot. By permitting slavery in this district of country, the number of slaves would not be increased—as if emigrants from South Carolina or Georgia were to remove into this country they would take their slaves with them; and he could see nothing in this which could affect the philanthropy of his friend. The North-western Territory is inhabited by a description of persons who have not been accustomed to hold slaves, and therefore the restriction is agreeable to them; but the territory in question will be settled by people from the Southern States, who cannot cultivate the ground without slaves. He hoped, however, the motion would be persisted in, and negated by a large majority.

Mr. D. FOSTER hoped, if the motion was not withdrawn, that a long debate might not be had upon it.

Mr. THATCHER said he should not withdraw his motion, and the more it was opposed, believing his cause to be good, the more obstinate he should be in its support.

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Mr. GILES wished to suggest a single idea. The present motion was brought forward from the avowed motive of furthering the rights of man. He did not know whether the tendency of it was calculated to ameliorate the condition of the class of men alluded to; he believed not. On the contrary, it was his opinion, that if the slaves of the Southern States were permitted to go into this Western country, by lessening the number in those States, and spreading them over a large surface of country, there would be a greater probability of ameliorating their condition, which could never be done whilst they were crowded together as they now are in the Southern States.

Mr. HARTLEY said, he had himself intended to have brought forward an amendment similar to the present, but, on inquiry, he found so many difficulties in the way, that he was obliged to abandon it. He found it would interfere with, and be a serious attack upon, the property of that country. He was sorry it was not in the power of Congress to gratify the wishes of philanthropists in this respect, by doing away slavery altogether; but this could not be done at present, and as he believed the present amendment, if carried, would be attended with bad effects, he should vote against it.

Mr. GALLATIN said, if he saw any of the great inconveniences which were foretold as likely to arise from this amendment, he should certainly vote against it. He should be extremely averse to the adoption of any principle which should either directly or indirectly lead to the production of any commotion or insurgency in any State where there is a great number of slaves. He did not see how any such effect could be produced by the present motion; for, notwithstanding what had fallen from the gentleman from South Carolina, it did not appear to him how a regulation with respect to another Territory can affect the peace, tranquillity, or property of any other State. How the forbidding of slavery in the Mississippi Territory could produce a worse effect than the same regulation in the North-western Territory, or in Pennsylvania, or in several other States. The amendment, therefore, could not be opposed on that ground; it must be on some other. Ought it to be rejected on the ground of jurisdiction? Certainly not. The United States intend to exercise jurisdiction over that Territory, and was there any more reason for excepting this jurisdiction than any other? If we establish this Government we expect it to be permanent; and if we believe it is not conducive to the happiness of any people, but the contrary, to legalize slavery, when we are about to form a constitution for a Territory, its establishment ought to be prevented. But, if this amendment is rejected, we establish slavery for the country, not only during its temporary government, but for all the time it is a State; for, by the constant admission of slaves, the number will increase to a certain degree, and when the Territory shall become a State, the

interest of the holders will be such as to procure a constitution which shall admit of slavery, and it will be thereby made permanent. Having determined slavery was bad policy for the North-western Territory, he saw no reason for a contrary determination with respect to this Territory.

There was, then, only one solitary objection to the amendment, and that might easily be obviated. It was with respect to the situation of the people already settled there who are possessed of slaves. It would be extremely impolitic and unjust to declare by ordinance that the people settled there, either under the British, Spanish, or Georgia governments, should be deprived of this kind of property; and if this was the effect of the amendment, he would vote against it. Such a regulation would be attended with the worst of consequences; but other words may be easily introduced to guarantee the property of the persons already settled there.

By the laws of the different States, Mr. G. said, the importation of slaves is forbidden; but if this amendment does not obtain, he knew not how slaves could be prevented from being introduced by the way of New Orleans, by persons who are not citizens of the United States. He hoped, therefore, the amendment would be agreed to.

Mr. NICHOLAS believed it not only to be the interest of the Southern States, but of the United States, that this motion should be rejected. They were to legislate for the whole of the Union, and ought to consult the happiness of the whole. It was not for them to attempt to make a particular spot of country more happy than all the rest. If it was a misfortune to the Southern States to be overwhelmed with this kind of property, he asked if it would not be doing service not only to them but to the whole Union, to open this Western country, and by that means spread the blacks over a large space, so that in time it might be safe to carry into effect the plan which certain philanthropists have so much at heart, and to which he had no objection, if it could be effected, viz: the emancipation of this class of men? And when this country shall have become sufficiently populous to become a State, and the Legislature wishes to discountenance slavery, the increase of slaves may be prevented, and such means taken to get rid of slavery altogether, perhaps in conjunction with other parts of the United States, who by that time may be in such a situation as to admit of it, as shall appear prudent and proper.

Mr. THATCHER was of an opinion directly opposite to the gentleman who had just sat down. Indeed, they seldom did agree in sentiment; to-day they differed very widely. He believed the true interest and happiness of the United States would be promoted by agreeing to this amendment; because its tendency was to prevent the increase of an evil which was acknowledged by the very gentlemen themselves who are owners of slaves. Indeed the gentleman from Virginia (Mr. NICHOLAS) had frequently declared in that House, that slavery was an evil of great magnitude. In this respect they agreed in opinion; for he considered the existence of slavery in the United States as the greatest of evils, an evil in direct hostility to the principles of our Government; and he believed the Government had the right to take all due measures to diminish and destroy the evil, although in doing it they might injure the property of some individuals; for he never could be brought to believe that an individual can have a right in any thing which goes to the destruction of our Government, viz: that he can have a right in a wrong. A property in slaves is founded in wrong, and never can be right. He believed Government must of necessity put a stop to this evil, and the sooner they entered upon the business the better.

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Mr. T. said, he honestly confessed he did not like to hear much said in that House about the rights of man; because of late there had been much quackery as to these rights. But, because these rights had been abused, it did not follow that man has no rights. Where legislators are freely chosen by the people, and frequently renewed; where a law cannot be passed without affecting the interests of the persons who pass it, these rights cannot greatly be abused; but, when we take upon us to legislate for men against their will, it is proper enough to say something about the rights of man, and to remind others, who are frequently heard speaking of these rights, that by nature these enslaved men are entitled to rights; and on that account it was, when he made this motion, that he said he would make a motion touching the rights of man.

The reasons offered against the amendment by the gentleman from Virginia, were a little singular. He contended that certain States were overflowing with slaves, and if not colonized by opening this wide tract of country to them, they would not be able to keep or manage them. He always thought that colonizing these people tended to increase the race far beyond what it would be when penned closely together.

Mr. GILES explained, by saying, that he had said nothing about decreasing the number of blacks, but of spreading them over a larger surface of country.

Mr. THATCHER said, he understood the gentleman's argument perfectly; though he did not seem to understand it himself. The gentleman wished to take the blacks away from places where they are huddled up together, and spread them over this territory; they wished to get rid of them, and to plague others with them. But they had them, and if they determined to keep them, he wished only they should be plagued with them.

We are, said Mr. T. about to establish a Government for a new country. Ours originated from, and was founded on the rights of man, upon which ground we mean to protect it, and could there be any propriety in emanating a government from ours, in which slavery is not only tolerated, but sanctioned by law? Certainly not.

It was used as an argument against this amendment that this Territory would be peopled by emigrants from the Southern States, who cannot work for themselves; and on that account they must have slaves to work for them. If this be true, it makes the people of the Southern States only fit to superintend slaves. The language of this is, that these people cannot subsist, except they

have slaves to work for them.

For the reason he had stated, he hoped the amendment would be agreed to; but if gentlemen thought those who at present hold slaves in the Territory should be protected in them, he should not be opposed to their holding them for a limited period.

The question was put and negatived, there being only 12 votes in its favor.

Adjourned till Monday.<sup>[29]</sup>

## **MONDAY, March 26.**

### ***Georgia Limits.***

#### **MISSISSIPPI TERRITORY—SLAVERY.**

The House again resolved itself into a Committee of the Whole on the bill for an amicable settlement of limits with the State of Georgia; when, after striking out the words "claiming under it," in the fifth section, and adding two new sections, the committee rose, the House concurred in the amendments, and the bill was ordered to be read a third time to-morrow.

One of the sections was moved by Mr. MILLEDGE, and was in the following words:

"That, from and after the establishment of the said government, the people of the aforesaid territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages, granted to the people of the territory of the United States north-west of the river Ohio, in and by the aforesaid ordinance of the 13th day of July, in the year 1787, in as full and ample manner as the same are possessed and enjoyed by the people of the said last-mentioned territory."

The other, moved by Mr. HARPER, was to the following effect:

"That, from and after the establishment of the aforesaid government, it shall not be lawful for any person to import or bring into the said territory, from any part or place without the limits of the United States, any slave or slaves, on pain of forfeiting three hundred dollars for every slave so brought, one-half to the United States, and the other half to the person who shall sue for the same; and every person so imported shall be entitled to and receive his or her freedom."

When this section was proposed, Mr. THATCHER moved to strike out the words "without the limits of the United States," so as to have made it unlawful to have brought any slave there; but the motion was not seconded.

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## **TUESDAY, March 27.**

The bill from the Senate for an amicable settlement of limits with the State of Georgia, was passed with amendments.

### ***Relations with France.***

Mr. BALDWIN hoped the House would now resolve itself into a Committee of the Whole on the state of the Union.

After a few observations from Mr. SEWALL against, and from Mr. NICHOLAS in favor of going into the business of the Union, the House resolved itself into a Committee of the Whole on that subject, Mr. DENT in the chair; when the PRESIDENT'S Message of the 19th instant having been read,

Mr. SPRIGG rose and observed, that every subject which came before the Committee of the Whole on the state of the Union must necessarily be important; but he believed there never was any more so than that which was presented to them by the Message of the PRESIDENT which had been read. Separated as we are from Europe by an immense ocean, it were to be wished that we were equally separated from its political concerns, and that we should have to do with them no farther than what relates to commerce. This, unhappily, had not been the case, and there now existed painful differences between this country and the French Republic. The Message which had just been read was an evidence of this. In this situation of things, it appeared necessary that the House should declare whether this country was to have peace or war. This was a subject in which the best interests of the Union were deeply concerned, and he hoped the business would be met fully and fairly. The PRESIDENT had informed the House that the present state of things is changed from what it was when he prohibited the arming of merchant vessels, and that therefore he had withdrawn that prohibition. Whether the order formerly issued by the PRESIDENT for this purpose was in conformity to the spirit or letter of the law, was not of importance now to inquire; the effect had been beneficial, and in the same proportion as the prohibition had been beneficial would be the evils of withdrawing it. In order to ascertain the sense of the committee upon what measures may be proper to be taken in the present crisis, he should offer the following resolutions to their consideration:

*Resolved*, That it is the opinion of this committee, that under existing circumstances, it is not expedient for the United States to resort to war against the French Republic.

*Resolved, &c.,* That provision ought to be made by law for restricting the arming of merchant vessels, except in cases in which the practice was heretofore permitted.

*Resolved, &c.,* That adequate provision shall be made by law for the protection of our sea-coast, and for the internal defence of the country.

The first resolution being taken up,

Mr. SITGREAVES said that, for himself, he could not agree to the proposed resolution. He did not mean, by this disagreement, to express an opinion, that, at this moment, it was expedient to go to war with the French Republic; but he thought the formal declaration of the contrary sentiment was highly improper. The present is a period of menace and of danger, of injury and outrage, and whatever might be the expediency of the actual crisis, yet he had no hesitation to avow his belief that the time is not far distant when war must be resorted to, or the national honor and interest be abandoned. The conduct of France was calculated to excite or justify no other expectation; and under such circumstances, with such prospects, he could by no means consent to a formal declaration of non-resistance. Besides, it is contrary to the usual and ordinary course of Legislative proceeding, to pass mere negative resolutions. The power of declaring war being vested in the Congress, so long as the Congress shall forbear to declare war, it is a sufficient expression of their sentiment that such a declaration would be inexpedient: it is the only proper expression of such a sentiment; and it can be no more right to resolve that we will not resort to war, than it would be to pass an act to declare it would be inexpedient to make a law for the regulation of bankruptcy or any other municipal concern. However desirable, therefore, he admitted unanimity to be, at a time like the present, he found it impossible to agree to the resolution.

Mr. BALDWIN did not agree with the gentleman last up; he thought the resolution proper and free from exception. We were, he said, twenty-three years ago, when we were about beginning the war with Great Britain, in a situation similar to the present; but we were then without many advantages which we now have. We were then without any common tie, except what arose from common interest. No means existed of holding conference together, but nature pointed out the course to be taken, and representatives from different parts of the country were travelling at the same moment to hold counsel together, and to speak their sentiments. The gentleman who has just taken his seat apprehends war must be the consequence of our present situation.

Mr. B. said this was the first time that the question of declaring war had ever presented itself, and upon which, he believed, there might be a difference of opinion as to the exercise of that power. He did not mean to say wantonly that our constitution is imperfect; but every society which has a written constitution must have recourse to it for direction. It would be improper therefore to inquire what agency the Legislature ought to have in the declaring of war; whether it is not proper that all the circumstances relative to such a state should be before them. He did not believe it was intended that this House should merely be the instrument to give the sound of war; the subject seemed to be placed wholly in the hands of the Legislature. This was the understanding of the country when there was no Government in existence, and he believed this was the meaning of the constitution. The country is now every where agitating this question of peace or war, and he trusted they would not be left to grope their way in the dark on this important question. The PRESIDENT had informed the House that all hopes of a negotiation were at an end. He was willing to take the information as it was given, without going into the Cabinet of the Executive, and to take measures accordingly. But when some persons declare that the present state of things is already a state of war; that the country is going on in it; that the die is cast, and that we have nothing to do but to go on with it as well as we can, if the House does not believe this to be a true position, this resolution ought to be agreed to, which went to say that the House does not consider the present a state of war, but a state of peace.

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Mr. OTIS said, if the gentleman who made the motion would consent to use the constitutional words on this occasion, he apprehended there would be no difference of opinion. He meant that instead of saying "to resort to war," to say "to declare war."

Mr. SPRIGG said, the resolution which he had proposed had not been the work of a moment, and he did not feel disposed to make the alterations proposed.

Mr. OTIS added, then he should propose to strike out the words "resort to," and insert "declare," as he was of opinion with the gentleman from Pennsylvania, (Mr. SITGREAVES,) that the only subjects fit for discussion were active measures, and that it was not regular to declare when they would not do a thing.

Mr. PINCKNEY was desirous of settling this motion by the previous question; but he was informed by the Chair that such a motion would not be in order in a Committee of the Whole.

Mr. DAYTON (the Speaker) said, that he hoped his friend from Massachusetts would withdraw the motion he had just offered, in order to make room for one he had to offer, which would render the first resolution more general, more innocent, and yet equally or more efficacious, and would test the sincerity of the advocates of that resolution as to their professed anxiety for the maintenance of peace. Upon Mr. OTIS withdrawing his motion, Mr. D. moved to strike out the words "against the French Republic" and declared that although he deemed the whole resolution unnecessary, and considered it as not naturally growing out of the PRESIDENT'S Message, which did not call upon us to declare or make war, yet as it must be the intention of the mover, or of some other member to follow it up with like declarations in relation to all other nations with whom the United States had any intercourse, provided they acted consistently, he thought it better to make the resolution a general one, even if it should be afterwards negatived. He, for himself, was as

ready to say that, under existing circumstances, it was as expedient for the United States to go to war with any other nation as with the French Republic. He saw no reason why that particular power should be singled out in the manner proposed; and as he was for cultivating peace, not with one only, but with all the nations of the world, he was willing so to declare his disposition, if any declaration was proper on the occasion. It was also to be observed, that it could not with propriety be objected against the amendment that there was no other nation with whom we were in danger of entering into hostility, for the tables of the House had been loaded with communications relative to the encroachments and unreasonable demands of another country, which had occasioned an apprehension that the United States would be driven to the necessity of a war in order to obtain possession of its own territory. If, therefore, gentlemen were anxious to cultivate harmony with the French only, then the resolution as first moved, was proper for their adoption; but if the preservation of peace with all was their real object, then he trusted that the amendment could not with propriety be rejected by those gentlemen who had introduced and advocated a proposition the utility of which, under any modification, he owned for himself, he could not discern, although he was willing to render it as unexceptionable as possible before it was decided upon.

Mr. SPRIGG informed the gentleman from New Jersey that the reason why the French Republic was inserted in the resolution was because it was founded on the Message of the PRESIDENT, which related solely to the French Republic. For his part, he was not desirous of war with any power on earth.

Mr. HARPER seconded the motion of the gentleman from New Jersey, because he thought it would be better in that shape. He had no particular objection to the resolution as proposed, only that he thought it a resolution about nothing; but as it might gratify the mover and some others, he should not object to it. He was not himself disposed for war, but for peace, while peace could be preserved. But he never said, and would not say, that war was the worst thing which could happen to this country; he thought submission to the aggressions of a foreign power infinitely worse. If gentlemen meant by agreeing to this resolution, to prevent the country from being put into a state of defence; if they meant by it to effect an entering wedge to submission, he trusted they would find themselves mistaken; for though he believed the true interest of the country lay in peace, yet he was not disposed to recede from any measures which he thought proper through fear of war. Or did gentlemen intend, by this question of peace or war, to enlist the popular prejudices in favor of peace, in order to prevent proper measures being taken for the defence of the country? If this was their view he should be the first to strip off the disguise. He trusted that this was not the case, as he saw it connected with another resolution which proposed the taking of measures for the defence of the country. The question at present, said Mr. H., is not a question of war, but of defence; and no two questions are more distinct. If gentlemen confound these two questions, and are determined to take no measures of defence lest they should lead to war, let them say so. He believed, however, the distinction was well understood by the American people.

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Mr. GILES believed this the proper time to declare whether the country should remain in peace or go to war. He thought the resolution proper as it stood, because founded on the Message of the PRESIDENT, in which the French Republic is only named. There was a part of that Message, he said, which, in his opinion, amounted to a declaration of war. The PRESIDENT tells the House, "that the situation of things is materially changed since he issued his order to prevent the arming of merchant vessels." As far as he understood the situation of the United States at that time, it was a state of neutrality. If that state is changed, and the present is not a state of neutrality, he wished to know what is. He knew only of two states, a state of neutrality and a state of war; he knew of no mongrel state between them. Therefore, if the PRESIDENT OF THE UNITED STATES, could declare war, we are now in war. Believing, however, that Congress had alone the power to declare war, he thought it time to declare what the state of the nation is. He did not know whether the object might not be answered by the resolution being general, as he was and always had been (notwithstanding insinuations to the contrary) against war with any nation upon the earth. He looked upon it as the greatest calamity which could befall any nation; and whatever may be the phantoms raised in perspective of national honor and glory in such a state, they will, in the end, all prove fallacious. He believed no nation ought to go to war except when attacked; and this kind of war he should be as ready to meet as any one. Mr. G. said, gentlemen were continually speaking of the degraded state of the nation, when their own measures had led to it. (Mr. HARPER denied that he had ever said the nation was in a degraded state.) Mr. G. was not sure that he had said it, but he believed he had frequently heard it. He believed we were in a state which required the utmost vigor; but he thought every measure should be avoided which might involve the country in war. For if we were to go to war with the French at present, he knew not what ever could take place which could produce peace; it must be a war of extermination. Mr. G. did not know that the present question was very important; but believing it strictly conformable to the Message of the PRESIDENT, he should be in favor of it as it stood, and against the amendment.

Mr. NICHOLAS considered this amendment as defeating the resolution. Was there nothing, he asked, which called for a declaration of the kind proposed? Was it not clear to every one that the country was going fast into a state of war, and (in the words of Mr. SITGREAVES) was it not to be expected? Ought not the Legislature then, (who alone have the power of declaring war,) to determine the state of the country, and say whether they mean to go immediately to war or not? He thought the necessity of the resolution was sufficiently evident, by the motion which had been made to change the words from "resort to war," to declare war; in the one case the mischief was met, whilst the other meant nothing. And if gentlemen were ready to say we were not prepared to declare war, and at the same were not ready to say it is not expedient to resort to war, it proved that they thought war might be made without being declared. He asked whether gentlemen did

not believe the Executive had taken measures which would lead to war? And that if he were at liberty to act upon a change of circumstances between this country and others, Congress were not brought into a situation in which they had no choice? Many discussions had heretofore taken place on the constitution, but he had never heard it doubted that Congress had the power over the progress of what led to war, as well as the power of declaring war; but if the PRESIDENT could take the measures which he had taken, with respect to arming merchant vessels, he, and not Congress, had the power of making war. He asked whether, when report went so far as to speak of an alliance, offensive and defensive, with a foreign country, it was not time to come to a declaration on the subject? Suppose such an alliance was formed, would it not be said that Congress are bound to carry it into effect? He knew it would, though he should resist the doctrine. Mr. N. said, he should be as unwilling to submit to any foreign country as the gentleman from South Carolina; but he could not, like that gentleman, say he was not afraid of war. I am, said he, afraid of it. This country affords me all the happiness I can wish or hope for, and I know war will be destructive to it. What was the difference between himself and that gentleman in this respect, he could not tell; it was to him surprising that any gentleman should be without fear as to the mischiefs of war. He was of opinion that the step taken by the PRESIDENT, with respect to merchant vessels, went to declare that we rested our cause on arms, which was not calculated to produce any good effect in our favor. He hoped the amendment would not be agreed to; if it was, he should vote against the resolution itself; and he did not think the gentleman from New Jersey, when he read the Message of the PRESIDENT, could think there was as much danger of a war with any other country as with the French Republic.

Mr. BROOKS agreed with the gentleman who brought forward this resolution, so far as it declares we are not prepared to resort to war. He believed no nation or man who had common understanding could be fond of war. The people of this country have yet the recollection of the fatal effects of the late war. But there are two kinds of war, offensive and defensive. He wished gentlemen to distinguish between them; for though he was ready to declare against offensive war, and to submit to small injuries rather than make defensive war; yet he was not willing to say he should not be ready to defend his country against the attack of any foreign power whatever. He hoped he should be believed in this declaration, as he had formerly been employed in the defence of it; and if gentlemen meant that though foreign nations attempt to invade our territory, and to reduce us again to the colonies of a foreign power, they would not repel them, he could not join them in opinion. And though he should vote for the resolution as moved to be amended, he should feel himself at perfect liberty to defend his country in case of attack. He wondered the gentleman from Virginia should object to vote for the resolution, because it was general, as it included the French Republic as well as all other nations.

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Mr. RUTLEDGE trusted the sentiments which the gentleman from New York had expressed would govern the committee, and that all were ready to say, that though we value the blessings of peace, yet we are ready to resist insult and injury from whatever quarter they come. He hoped this would be the conduct of this country; and notwithstanding much had been heard about British parties and French parties, that all would unite in this determination. This being his opinion, he should vote for the amendment; and he hoped gentlemen would be satisfied with this declaration, and that no more would be heard of a party in the House in favor of war. Though he meant to vote for the resolution, he thought it unnecessary; but in these days of jealousy and suspicion, if he were not to vote for it, he should expect to be told he was in favor of war.

Gentlemen asked whether war is not approaching? And whether the Executive is not hastening it? To the latter question he would answer in the negative; with respect to the other, he could not answer, as it depended on France, and so versatile and uncertain is every thing in that country, that no dependence can be had upon it. Mr. R. said, at the last session, when we had no intercourse with France, he thought it necessary we should have it: that intercourse had proved ineffectual; and though he sincerely wished for peace, yet he saw something in the conduct of France which almost precluded hope.

The gentleman from Virginia had said, that this country had frequently been stated as in a degraded state. He did not recollect to have made the declaration, but this was his opinion. When our national rights had been violated; when our commerce had been depredated; when the vessels of belligerent powers, which had sought an asylum in our waters, had been plundered and burnt, he thought it necessary to go into measures of defence. He thought our frigates ought not to have remained at the wharves; that our extensive sea-coast on which is much wealth, should not be unprotected: he thought our seaports, the principal depots of our revenue, ought to have been fortified. He joined his friends in their attempts to have carried these measures, and, when they failed, he could not help thinking his country was in a degraded state and that she had lost the spirit which animated her in the year 1775. He hoped, however, that now, when France had gone to the lengths which she has gone to, that there would have been only one sentiment as to the propriety of the measures formerly proposed. But though he thought the nation in a degraded state, he was not in favor of war. He believed the citizens of this country were not for it. He believed the Government was averse to war; and that no part of it was more so than the Executive. War would be a loss to this country; and to no individual more than the Executive. He is no warrior, and, consequently, war has no laurels in store for him.

The gentleman from Virginia has spoken of war as having something dazzling in perspective; something which flattered pride and ambition. But did the gentleman suppose that a war with France could be flattering to pride or ambition? It could not; it would be a war of prudence; we must shut ourselves up, and act on the defensive, and say, "when reason returns, when an ebb shall take place in the affairs of France, when her flow of victories shall be over, she will do us

justice." In the mean time, we must defend ourselves. Mr. R. repeated, that he did not believe any man in that House could wish for war; when he looked around him and saw gentlemen whose wounds are yet sore from former service; when he saw them voting for measures of defence, he could not believe, nor could any believe, that they wished to plunge the country in war. It would sooner be believed that gentlemen who made the charges were mistaken.

Mr. SEWALL was opposed to the proposition as it now stood, and hoped it would be amended. What effect it would then have, he left those to judge who introduced it. Mr. S. said, he and those who, on all questions of defence, had voted with him, had been endeavoring for some time to go into some measures of that kind, and to determine whether these measures should be confined to our own limits or be extended to the ocean. These measures ought now to be decided upon, as this is a moment in which our commerce is depredated upon in a most unprecedented manner. We are now, said he, called upon to consider the hazards of our situation. [Mr. S. then quoted a part of the PRESIDENT'S Message, as to the situation of our affairs in France, and as to the decree which was proposed respecting the taking of English goods on board of neutral vessels, and the carrying of which was declared to make neutral vessels good prizes.] This last regulation, Mr. S. said, was a direct violation of the law of nations, and amounted to a declaration of war on the part of France against this country. But, instead of making any defence, gentlemen call upon the committee to declare we are not disposed to resort to war against the French Republic; so that, after we have been injured and abused, and denied the common rights of humanity, we are not to complain, but make a declaration that we will not go to war. Was then, he asked, a question of war a card of politeness? Did a nation ever make a declaration that it was not at war? It could not say so, except it were in so degraded a state that it had no rights capable of injury. To say we are not at war was to say no more than it is light when the sun shines; but to call upon the committee to say so at this time, was to degrade the nation from its independence, and below its character. The present state of things, Mr. S. said, ought to be considered as a state of war, not declared by us, but against us, by the French Republic; and if we want spirit to defend ourselves, let us not say so. We may refrain from acting, but let us not say we receive injuries with thankfulness. But this proposition goes still further. In a moment of public danger, it goes to divide and separate this House from the PRESIDENT OF THE UNITED STATES. The gentleman from Virginia had well explained this resolution, when he said, it was intended to interrupt the views of the PRESIDENT OF THE UNITED STATES. That gentleman considered the Message of the PRESIDENT as a declaration of war, and this resolution was to be in contradiction to it. If this was the sense in which it was to be understood, it was false in point of fact; for the PRESIDENT had neither declared war nor called upon Congress to declare war; no such sentiment could be found in the Message. To agree to the proposition as it stands, would be to give countenance to the assertion of the French Government, that we are a people divided from our Government; but, taking it with the amendment, he looked upon it as a harmless thing. Mr. S. concluded, by saying, that he considered the conduct of France in the light of war. How far we would resent it, was the question; whether offensively or defensively. He was in favor of defensive measures, as we are not equal to offensive measures, (he wished to God we were.) It was our weakness, and the division which had appeared in our councils, that had invited these attacks. He trusted they should now unite and repel them.

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Mr. GALLATIN said, before the speech of the gentleman who had just sat down, he could not discover what was the meaning of the amendment, to strike out the words "against the French Republic," as, when the House were in a Committee of the Whole on the state of the Union for considering the late Message of the PRESIDENT, the resolution was perfectly consonant. Besides, we have no danger to apprehend from any other power, since our dispute is settled with Spain. The intention of the amendment was evidently to render the resolution as unmeaning as possible.

Every gentleman who had spoken on this subject, had agreed that war is not a desirable object for the United States. He gave them credit for the assertion. But this was not the question; but whether we are prepared to resort to war under existing circumstances. It is a question of fact. Mr. G. took notice of the different modes which had been attempted to defeat the resolution; but, though the present amendment were agreed to, he should still vote in favor of the resolution; for it would be effectual, in some degree, as it could only apply to the French nation, though it was not so expressed.

Mr. G. believed the United States had arrived at a crisis at which a stand ought to be made, in which it was necessary for Congress to say whether they will resort to war or preserve peace. He was led to this conclusion from a review of the conduct of France, and of the late Message of the PRESIDENT.

In respect to France, we know, that some time ago, she declared our treaty with her to be at an end; though not in words, the result was to deprive us of the advantages derived from that treaty. In the next place, she dismissed our Minister Plenipotentiary. Under these circumstances, the PRESIDENT called the extraordinary session of Congress, and when met together, after having related the reasons which induced this call, he concluded with saying, "that it was his sincere desire to preserve peace and friendship with all nations, and believing that neither the honor nor the interest of the United States absolutely forbade the repetition of advances for securing these desirable objects, he should not fail to promote and accelerate an accommodation," &c. The PRESIDENT accordingly sent Envoys to France, and the result of the embassy was given to Congress in the last Message, which was now under consideration, in which he says, "the object of the mission cannot be accomplished on terms compatible with the safety, honor, or the essential interests of the nation." The people of the United States are therefore informed, that negotiations are at an end, and that we cannot obtain redress for wrongs, but may expect a continuation of



captures, in consequence of the decree which it was supposed was passed, for seizing all neutral vessels with British property, manufactures, or produce, on board. Mr. G. said, he differed in opinion from the gentleman last up, that this was a declaration of war. He allowed it would be justifiable ground of war for this country, and that, on this account, it was necessary to agree to, or reject the present proposition, in order to determine the ground intended to be taken. For, though there may be justifiable cause for war, if it is not our interest to go to war, the resolution will be agreed to.

There was another reason why this resolution ought to be now decided, which arose from the conduct of our Executive. He has declared that a change of circumstances has taken place which has occasioned him to withdraw his order forbidding merchant vessels to arm; which amounts to this, that he now permits vessels of the United States to use means of defence against any attack which may be made upon them. Mr. G. thought it necessary, therefore, to declare, whether we were to pursue measures of war or peace. Before measures are taken which will lead to war, the House ought to decide whether it is their intention at present to go to war.

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The gentleman from New York had spoken of the difference between offensive and defensive war. This related to the motives, more than to the manner, of carrying on war; because when war is once entered into, though it may be at first defensive, it cannot remain so. It would be ridiculous, for instance, to say, that our frigates should prevent our vessels from being taken; but that they should not take French privateers.

But it was said, if the resolution was agreed to, it would confirm the opinion which had been held that Congress and the Executive were divided in opinion. The gentleman from Massachusetts (Mr. SEWALL) told the House that the question was war or peace; that the conduct of France was a declaration of war, yet as the PRESIDENT had not called upon Congress to go to war, they ought not to declare that it is not expedient to resort to war. But if it be assumed as a principle, which that gentleman asserts, that the conduct of the French is a declaration of war, and the PRESIDENT has told us we are in war, the resolution could not be improper. Or if his other principle be assumed, that the information of the PRESIDENT does not amount to war, then an agreement to the resolution would show that Congress concurred with him in opinion, that it is not proper at present to resort to war. So that in both cases, the resolution is proper.

Mr. G. said he was precluded by the amendment from going into the merits of the resolution. His arguments went to show the propriety of agreeing to it in one way or other. Nor did he mean to take any notice of what had been said about a division of opinion in our councils having invited the insults and injuries which France had committed against this country. If he were to do this, he must have recourse to recrimination, which he did not wish. He wished rather to take a serious view of our present situation, and either meet it by war, or by measures which shall avoid war. On both sides are difficulties; but the difficulties and inconveniences of both ought to be weighed, and the least taken; and, having determined, measures ought to be pursued accordingly. He did not wish to adopt the resolution as proposed to be amended, and then go on and act directly contrary to it. He thought it best to meet the resolution at once, and say whether we are determined on war or peace. If we go to war, we must expect to meet all the expense and evils of such a state; and if we remain at peace, we must, in a certain degree, *submit*. He meant to say, that we must submit to have a number of our vessels taken. But whether we shall have more taken in adopting one course than the other, he left to gentlemen to determine. He thought the submission he had mentioned, very different from the submission which had been spoken of by the gentleman from South Carolina, and others.

Mr. G. concluded, by observing, that the conduct of France must tend to destroy that influence which gentlemen had so often complained of as existing in this country. Indeed, he was convinced that at the commencement of her revolution there was a great enthusiasm amongst our citizens in favor of her cause, which naturally arose from their having been engaged in a similar contest; but he believed these feelings had been greatly diminished by her late conduct towards this country. He thought, therefore, that whether we engaged in war, or remained in a state of peace, much need not be apprehended from the influence of France in our councils. The business had come to a mere matter of calculation, as to what course will be best to be taken for the interest and happiness of the country. If he could separate defensive from offensive war at sea, he should be in favor of it; but he could not make the distinction, and therefore he should be in favor of pursuing measures of peace.

Several persons rose, but, being about three o'clock, a motion was made for the committee to rise, which was negatived—46 to 44.

Mr. DANA did not conceive that the construction of language given by the gentleman from Pennsylvania, was to be taken as true, without examination. He trusted not. The gentleman stated the question to be peace or war; he could not conceive it to be such. It was unfortunate that, in this important crisis, the House should be engaged, like a set of rhetoricians, in disputing the meaning of words. Indeed, the decision on the present motion, he thought wholly unimportant.

The gentleman last up had said there was no distinction between offensive and defensive war, and that he was, therefore, opposed to either. Mr. D. thought the distinction clear; offensive war, is when an attack is made upon another; and defensive, when a nation has recourse to war, merely for self-defence. But there was another state of things which could not have the name of war, which was to have recourse to measures of defence; to be prepared in cases of attack. It was clear, by the law of nations, that to prepare for defence, was not to commit hostility. To say that to take measure of defence is hostility, was a new definition, and it was the mighty discovery of

the gentleman from Pennsylvania.

Did gentlemen mean that if we should make use of force against lawless violence, it is war? If not, what did all that had been said amount to? He thought the proposition perfectly nugatory. [Pg 231]

But the gentleman said, that his friend from Massachusetts had said, that France had already declared war against us, and that, therefore, we must resort to war. For his part, he did not know what gentlemen meant by resorting to war. If they had adopted terms which had any legal meaning, he could have understood them, but the present might mean every thing, or nothing. If it meant any thing, it meant taking active measures against France in the first instance. He was not only ready to say he would not consent to do this with respect to France, but with respect to every other nation.

The gentleman from Pennsylvania, and two gentlemen from Virginia, had said that the Message of the PRESIDENT amounted to a declaration that we were now in war. This idea he thought was stated very incorrectly. They did not seem to have understood the meaning of the language of the PRESIDENT. The state of things which existed at the time orders were issued to prevent the arming of merchant vessels was essentially different from the present; then there was an evident disposition in the owners of vessels to cruise against a foreign belligerent nation, and the order was issued to prevent attack and plunder; but the desire to arm at present is for the purpose of defence merely, and not to cruise or plunder. There is a law forbidding vessels to arm for the purpose of cruising; but none forbidding merchants to arm in their own defence. This was the fair construction, he believed, of the meaning of the PRESIDENT.

Mr. OTIS observed, that the opposers of this amendment could assign no better reason for declaring a desire to keep peace with the French Republic, to the exclusion of other nations, than their own construction of the PRESIDENT'S last Message, which they considered as directed against that Republic only; but the House having resolved itself into a Committee of the Whole on the state of the Union, the resolution on the table had no greater relation to that Message than to any former Speech or Message, or to the affairs of the Union at large. If it was intended as an answer to the Message, it should be moved in that form; but unless it was in a particular manner connected with it, the public could not connect it more naturally with this Message, than the Speech delivered at the opening of the session. The House had been heretofore informed, that France was not the only country with which a rupture was to be apprehended. Spain might be considered, until lately, as having actually invaded our territory; and though the presumption at present was, that the causes of contention with that country were removed, yet they were not officially informed of that fact, and without such information it was not less proper to express their desire of maintaining peace with Spain than with other countries. Again, gentlemen had often intimated that a war with France would involve us in a war with the nations in alliance with her. It was therefore inexpedient to show a contempt or indifference for them, by leaving them out of our pacific manifesto.

He considered the Message in a different view from many gentlemen. But admitting, for the sake of argument, that the PRESIDENT had declared an opinion upon the facts stated by him, that war was inevitable; gentlemen must consider the fact to be true; if they doubted it, they ought to demand information. How would this resolution then stand? In reply to assurances that negotiation had failed; that our Commissioners were treated with neglect and contempt; that letters of marque and reprisal were issued against our vessels; and that the most hostile appearances were discernible on the part of France; it was proposed to declare, that with them, and them only, it was inexpedient to resort to war. Such a proposal would hardly be found in the annals of the most humble and degraded nation.

He disapproved of the resolution, though he should vote for the amendment, and would not, on the present occasion, follow gentlemen who had gone at large into the merits of the resolution. Upon the extent of the defensive measures proposed by gentlemen, his feelings inclined him to enlarge; but this discussion would be more pertinent upon some other question. He would merely hint, that actual invasion might not be the worst calamity to this country. He could conceive of a partial invasion of our territory that would be much less injurious, and attended with much less loss than the total ruin of our commerce.

The call for the committee to rise being repeated,

Mr. N. SMITH hoped gentlemen would be satisfied to take the question, which he thought very unimportant. The time consumed in discussing it was, however, important, as other concerns called for attention. He knew there were gentlemen who chose rather to address the people of the United States than to legislate. He thought it better to legislate, than to preach to the people. He looked upon the present resolution as a text from which it was intended to alarm the people with respect to war, and he wished not to indulge gentlemen in their design. He wished the question to be taken for another reason. It was suggested by the gentleman from Virginia, that the Message of the PRESIDENT was considered by the people as a declaration of war, and that reports were in circulation, that a treaty, offensive and defensive, was concluded with Great Britain. After this, he would call the attention of the committee to the resolution, which was, in effect, to say, we must interfere, or war will be brought upon the country. Did not this go to sanction a report which was as false and malignant as even jacobinism could invent? It did; and he hoped, they would not so far sanction the report, as to let the motion lie before them undecided.

Mr. DAYTON hoped the committee would rise. The gentleman last up began with saying the proposition was of no importance; but, before he sat down, showed that he thought differently. Mr. D. thought it was of importance that the committee should come to a right decision upon it, [Pg 232]

and say whether it ought to be agreed to in general terms, or rejected.

Mr. N. SMITH explained.

Mr. J. WILLIAMS thought the question trifling, and hoped a decision would be had upon it.

Mr. GILES said, the question was a question of peace or war, and yet gentlemen call it trifling. He did not mean to alarm the people of the United States, but he wished them to understand their situation. He acknowledged he was himself much alarmed. Gentlemen were willing to engage in defensive, but not in offensive war; but when war was once begun it would not be in the power of the United States to keep it within the character of defensive war. Indeed the gentleman from Massachusetts, when he spoke of defensive war, confessed our inability for offensive war, and uttered a prayer to the Supreme Being that we were able to engage offensively; and where, he asked, with such sentiments, is the difference between offensive and defensive war? He could see none; he deprecated war of every kind.

Mr. J. WILLIAMS hoped the question would be taken. As he before stated, he thought it trifling, and the debate upon it only calculated to alarm the people, which seemed to be the object of gentlemen. If the question was not taken before they adjourned, much debate would be had, and much time spent to very little purpose. He thought it very extraordinary, as no one was found to bring forward a resolution to declare war, that a gentleman would introduce a resolution of its being inexpedient so to do. He was persuaded that this negative mode of proceeding was calculated to draw on a debate, to set the people against the Executive. Time, he said, was precious; they had sat near five months and done but little, much remained to be done, and as all had declared their aversion to a war, the people should be undeceived. He had himself seen gentlemen write upon the late Message of the PRESIDENT, for the purpose of sending to their constituents, "*A war message against France.*"

Mr. MACON wished the gentleman would name who had thus written.

A call of order took place: and a motion was made for the committee to rise, and carried.

### **WEDNESDAY, March 28.**

#### ***Relations with France.***

The House again resolved itself into a Committee of the Whole on the state of the Union, when the amendment to the first of Mr. SPRIGG's propositions, as to the inexpediency, under existing circumstances, of resorting to war against the French Republic, being under consideration; which amendment is to strike out the words "French Republic,"

Mr. PINCKNEY rose and said, he was in favor of the amendment, because it tended to make what he thought an improper proposition, in some degree, nugatory; for he believed to agree to the resolution without it, would be prejudicial to the interest and welfare of the country, as he did not think the period had arrived which called for a decision on measures of war or peace. If such a declaration had been necessary, he should have expected it to come from gentlemen in favor of a war, declaring, that it is expedient to go to war, as it was a very uncommon thing to declare we will not do a thing. His strongest reason against coming to this resolution, however, was, that at this period the House had not sufficient information concerning the whole of this business, to enable them to form a correct judgment upon it. The PRESIDENT told the House, indeed, that he had little hope of a favorable termination of the negotiation, but they knew nothing of the train of the negotiation, or of the circumstances attending it. They knew that our Commissioners had not been received; but they had not sufficient information as to the manner in which they had been treated, to enable them to come to the decision proposed.

The gentleman who proposed the resolution, said it was time to come forward and declare whether we will have peace or war. Would to God, said Mr. P., it was in our power, by any such declaration, to avert war, or maintain peace; but he believed this did not depend upon any declaration of ours. In questions of war there were always two parties, one of whom was generally the aggressor, and the other generally passive. In the present case, he considered this country as the passive party, and, therefore, any declaration on our part would have little effect. We know that individuals or nations induced to pursue measures from interest or passion, are not easily diverted from their purpose. If the French are actuated by either of these motives, no declaration of ours will prevent the calamity. Such a proposition would rather accelerate than prevent the evil. If our declarations could have availed, they have not been wanting. From the first period of a misunderstanding between the two countries, declarations have been made deprecating war in general terms, but particularly with that nation. A Minister Plenipotentiary had been sent to explain the views of this Government, and to remove any jealousies which might exist, and to make such specific propositions as were thought necessary; but our Minister was rejected without a hearing. The next measure was, to send special Commissioners, in order to settle our differences and avert the calamity of war. We have, therefore, made sufficient declarations of our pacific intentions. Indeed, he thought too much had been rested on these declarations, as nothing had been done for our defence. When we looked at our seaports, and saw their defenceless condition, he thought it evident sufficient attention had not been paid to them, knowing that war might, at least, be a possible event.

This resolution differed exceedingly from any thing which took place when we had a misunderstanding with England in 1794. At that time, when England issued her extraordinary Order of the 4th of November, and our commerce was depredated upon, measures were spoken

of for countervailing the injuries which our citizens experienced, but no proposition like the present was produced. We are now aggrieved and injured in a most extraordinary manner, but we say we will not go to war. On a former occasion he had heard of a variety of restrictive regulations, proposed with a view of restraining the injuries committed upon us, and to bring Great Britain to reason; and he did expect something similar would have been proposed on the present occasion, but nothing of the kind had appeared. It was true we had not so great hold of the French nation as of the British, in this respect, but we had some; and he believed measures might be taken which would induce the nation to hear reason. But, instead of this, it was proposed that we should say, we have been injured and aggrieved; but we will not oppose you, we will not go to war with you.

The gentleman from Pennsylvania (Mr. GALLATIN) had gone further than perhaps the resolution on the table would warrant. He says, the adoption of this resolution will go to prevent the taking of any measures which may, in their tendency, lead to war. If gentlemen meant by this, that it was to prevent any measures being taken for the protection of our commerce, the adoption of the resolution would not only declare that we will not go to war, but that we will not take any measures for the defence of our property. It appeared to him that that gentleman had himself given the best reasons for modifying this resolution, so as to make it as little mischievous as possible. For he had told the committee that France had set at naught her treaty with us; but though they have done this, said Mr. P., they have endeavored to justify their depredations, by insisting that, according to that treaty, it was necessary for vessels to carry a *rôle d'equipage*. Mr. P. added, there was another Order of the French Government which was so contrary to right, so cruel in its consequences, so degrading to this country, and so inhuman in its tendency, that he could not avoid noticing it. It was the decree which declares that every American citizen found on board the privateer of an enemy, shall be considered and treated as a pirate. They pretended to found this Order on our treaty with Great Britain; but he wished gentlemen who thought it justifiable, to turn to that treaty, and see whether there was any thing there which countenanced so violent a measure. But this is not all, the gentleman from Pennsylvania allowed that a decree had lately been passed which violates all the laws of neutral nations, viz; that if the property, manufactures, or produce, of an enemy be found on board a neutral vessel, it shall be good prize. Our Ministers, also, who were commissioned to conciliate, and even to make concessions, though they had been in Paris three months, cap in hand, had not been able to get a hearing. Under all these grievances, what, said he, are we called upon to do? He should not have been surprised if some one, fired with the injuries we have received, had brought forward a proposition for war. But, instead of this, smarting as we are under injuries, our commerce bleeding at every pore, and our country deeply humiliated, we are called upon to say: You have done every thing to injure, insult, and degrade us, but we have deserved it: we will do nothing to oppose you. Though God and nature have given us power, we will not go to war with you, neither on the present occasion, nor on any other, whatever injury you may commit upon us.

However humiliating our conduct might be, he repeated, it would have no effect upon that nation. He did not wish to animadvert upon the conduct of any country; but there was one instance of the treatment which the French Republic has exhibited to an independent State, which he could not help noticing. It was in respect to Venice, which would show, that no humiliation, no concession, would avert the calamity which threatens us, if the rulers of the country are determined upon war. If he was not misinformed, the circumstances of the case were as follows: The Venetians were at peace, and endeavoring to pursue a line of neutrality. A tumult arose in one of their towns, and the populace did, in a barbarous and most unjustifiable manner, massacre a number of French soldiers. This was an injury which called for and deserved atonement. A retaliation took place fully commensurate with the crime. The Venetians made every concession in their power. But the French commander was not satisfied; he took vengeance upon them by overturning their Government—a Government which had stood the test of five hundred years. He should have supposed that the French would now have been satisfied; but the matter did not stop here. The Government being overturned, the people were promised a free Government, and an amelioration of their condition. They were proceeding in the establishment of a Government; but, when the treaty came to be made between the French Republic and the Emperor, he supposed it was thought to be for the interest of that Republic to sacrifice a part of this territory, and to give it up to the Emperor, to take a part to themselves, and to annex another part to the Cisalpine Republic. This was done; and he believed the very part which had committed the offence against the French Government, had been rewarded by being joined to a free Government.

This division of the Venetian territory was not the work of a young officer, elated by victory and conquest, or enraged by the treatment which his soldiers had received. The French Directory had come forward, and, by their decree, had applauded the whole conduct of their General in the most unqualified terms, particularly as to Venice and Genoa. He would not take up the time of the committee by citing the conduct of the French towards the latter Republic. The case of Venice was sufficient to show how little was to be expected from a humiliating conduct.

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Mr. GILES thought the gentleman who had just sat down had been less correct in his statements than he usually was. He would allude particularly to one instance. That gentleman says, whatever aggressions and insults may be heaped upon us, the supporters of the resolution will not go to war. The proposition held a directly contrary language. It says: "That, under present circumstances, the United States deem it advisable to remain in a state of peace." [Mr. PINCKNEY said the reason why he had made this remark was, that yesterday the gentleman himself had said, he should not be for going to war, unless the country was invaded. He, therefore, connected the resolution and this declaration together.] Mr. G. said, he still repeated the same thing; that

we ought not to resort to war beyond the limits of the United States. But he drew a contrary inference from this, from that which that gentleman had drawn, because he had accompanied the declaration with another, that he was perfectly ready to prepare to that extent for defence. He would explain the grounds of this opinion. Within our own limits we are capable of making something like exertion, and there, he believed, exertions might be made to advantage. Indeed, one of the propositions, which is connected with the present, goes to this purpose, and therefore with what propriety could the gentleman say, he and those who were of his opinion were not for preparing for defence till the enemy is at the door? Nor could he see any thing like humiliation in this. Nay, he was convinced, if we carried our preparations for defence beyond our own limits, instead of gaining glory or honor, we shall meet with nothing but disgrace, as we are not prepared to make a defence at sea. Indeed, the moment we get beyond our jurisdictional line, defence will become offence, because there will be no evidence by which it can be ascertained by whom the attack commenced. It would, therefore, be unwise to permit ourselves to be placed in this situation. If any object was to be effected by going out to sea, it must be the protection of our commerce with Great Britain; but it was known that the two acts of the British Parliament which took place in January last, if peace continues, may take that trade in a great measure from us. He did not think, therefore, that this was a sufficient object for which to incur so much risk.

At present, said Mr. G. there is a pretty general opinion in the country (and he thought there was much ground for the opinion) that there is a disposition in a part of this House, and in part of the Government, for war; and he thought it was proper to come to a declaration upon the subject. This would not only have a good effect upon our own citizens, but it would convince European powers, that though we were preparing for defence, we were not preparing for war.

Mr. G. said, he was not satisfied with the construction which the gentleman from Connecticut (Mr. DANA) had given to that part of the Message which speaks of our situation being changed. He did not believe the PRESIDENT had any reference to the dispositions of the people, but to the state of things generally.

The apprehension of war had already begun to produce disagreeable effects in his part of the country. He had received information that produce had fallen in price, and that the sale was very dull. He was of opinion, therefore, that the proposed declaration, if agreed to, would appease the minds of the people. It was said it would have no good effect upon the Executive Directory. He did not know that it would. But it could have no bad effect; and it might have a good one, for he did not think that body quite so abandoned as some gentlemen thought them.

The gentleman last up had spoken of the partition of Venice. He himself saw it with concern; but where was the difference in crime between the French Republic and the Emperor? Each took a part. But what was all this to the United States? Were they to go to war to avenge this partition? We heard nothing of this kind some years ago, when a partition of Poland took place. For his own part, he wished to leave the powers of Europe to themselves, and to draw ourselves within our own boundary, where we should be fully equal to our defence against any power on earth.

Mr. HARPER.—When this resolution was first proposed, it appeared to him to be one of those nugatory measures which might either be agreed to or rejected, without producing any effect; and, until he saw the resistance which was given to the amendment, he remained of the same opinion; but now he found it was to say to the French nation, "you may commit against us injury after injury, and insult after insult, we never will resist you."

If this were not the intention, why resist the amendment? Taking this to be the intention, he should bestow some observations upon it. Gentlemen preached about peace. They cry, "peace, peace," as if we, holding the scale of the world, had the power to preserve it. Do not gentlemen know that peace or war is not in our power? They do know it, and that all in our power is to resist, or submit. Was not the clamor which was heard about peace, in so many words, saying, you must submit, not only to what injuries you have received, but to what you may hereafter receive? Was not every advance, on our part, for an adjustment of differences, met with new injuries and new insults? It would not be denied. If peace was all that gentlemen wanted, they would take the resolution in general terms, as proposed to be amended; but their opposing it shows that they have no objection to hostility, if it be not against the French nation—he would not say whose servants they were desirous of being, but against those whom they dread they are afraid to lift up their finger. And this was the spirit of peace which they wished to preserve—a spirit which he deemed vile submission—a spirit which was afraid to complain, and which met every new insult without murmur.

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Mr. H. rejoiced that this amendment was made, because it had unmasked the intentions of the mover and supporters of the original proposition. They were now obliged to avow, it is not peace with all the world which we want, but peace with France—a servile and abject submission to one nation; a nation in behalf of whom they have heretofore been eager of war; for, notwithstanding all their cries at present for peace, peace, when there is no peace, they have on a former occasion been equally zealous for war. All their efforts were then used to involve this country in war, upon the side of the French Republic; but now, when measures of resistance are called for—not against France, but to prevent her from wounding her enemy through our sides—their cry is turned from war to peace. This he repeated, and, if they denied it, he would refer to written accounts of their discourses at that time, which would prove that they had sought war against England, and an alliance, offensive and defensive, with the French Republic. At that time, he and those who generally vote with him, desired peace; and it required all their skill and firmness to preserve it, and much obloquy was thrown upon them on account of their exertions. The ground which he and his friends then took was—let us first try negotiation; if that fail, we will then join you in the war. But these gentlemen were, at that time, all in favor of war measures in the first

instance. Whence now this change of spirit? What has become of the spirit of 1794, when it was said to be disgraceful to negotiate, and that it would be base to surrender the independence of our country to a foreign power? He wished he could see the breasts of gentlemen now glow with the patriotism which then animated them; but, instead of this, what do we see? A spirit of the most abject kind; a spirit that would leave all our property unprotected beyond the limits of our territory, so that our commerce, from which is derived five-sixths of our revenue, is to be abandoned, lest, in defending it, we should give offence to the French Republic.

The committee were now told it would be time enough to prepare for war when an invasion of our country was attempted. And why were they told this? Because such an event is not likely to take place. Gentlemen know that all the hostility which France wished to commit against this country may be done by destroying our commerce. But they are disposed to surrender this part of our rights, rather than resist; and what security had we that, if the country were invaded, these gentlemen would then resist? He apprehended that the same spirit which led them now to submit, would continue to actuate them.

Last year gentlemen were opposed to doing any thing which should alter the state of things. If this negotiation, said they, fail, we will then join you in active measures. But now, when that time is come, they tell us we must still sink lower, and become more degraded. We are to be contented, not only to see our ships captured, our property destroyed, our sailors led in chains, our revenue annihilated, but we must see the army of the enemy attempt to land, before we will resist.

Mr. H. said he would bring his proofs, to show that those gentlemen who are now so loud in their calls for peace, were heretofore the supporters of a war system. For this purpose, he adduced Mr. Monroe's view of the conduct of the Executive of the United States, which, he said, was a publication which had met with the most unbounded and enthusiastic applauses from all the party; and he read from it an extract of a letter from Mr. Monroe to our Secretary of State, dated Paris, September 10, 1796, pages 209 and 210 of the book, in which he states it to be his opinion, "that if a suitable attempt be made to engage the aid of the French Government in support of our claims upon England, it may be accomplished; and that to secure success, it will be necessary to take the posts and invade Canada."

Would any man, said Mr. H., who shall read this passage, say that the system of these gentlemen is a peace system? And besides this proposition for taking the posts and invading Canada, the same gentleman proposes an advance to France of five millions of dollars. Yet these are the gentlemen who now are willing to say to France, "We will not fight you; we give you license to do us all the injury you please. You may fit out half a dozen frigates, which will be able to block up our ports; and we give you this notice that you may effect your purpose with little expense, and not prepare a large fleet for the purpose."

The gentleman from Virginia, (Mr. GILES,) whose zeal for keeping this country in an absolutely defenceless state, has surpassed all the zeal he ever before displayed, except that which he had shown on a former occasion for bringing us into war, has told us that peace is the best thing we can have; and that it would be knight-errantry to attempt to defend our property at sea. After our Ministers have been sent off, and a decree passed which must destroy our commerce, and which had been already allowed to be just cause of war, this was the language of that gentleman on the present occasion. To show this gentleman's consistency, and because his language was at that time so spirited, so American, and carried with it so much force and energy, he could not forbear reading an extract from his speech on the 28th of March, 1794, upon Mr. DAYTON'S motion to sequester British debts. The question was not then whether we should arm for our defence, but whether we should make an attempt at negotiation. The arguments of the gentleman were, it is true, somewhat misplaced, though they were nevertheless patriotic and admirable; and he could not account for the strange contrast of his present sentiments on any other ground than that he believed the true interest of this country was only to be effected by a treaty of alliance with France and war with her enemy. Gentlemen who were on a former occasion in favor of spirited measures in defence of our rights, and were on this occasion the same, are consistent; though their arguments might not altogether be properly timed, yet they were radically right.

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Mr. H. said, he would bring another example to the view of the committee. He meant that of Switzerland. Attempt after attempt had been made by France on the independence of that country. After going a variety of lengths, they effected their purpose of driving from thence that unfortunate class of men, the emigrants, who had been persecuted by those who had usurped all authority in France, and who sought the rights of hospitality amongst them. New aggressions were made; they took possession of a part of the Swiss territory, and displaced their magistrates. Seeing that every submission invited fresh insult, they united, hand in hand, took up arms, and reinstated the magistrates who had been displaced, and resolved to live free or die. What was the consequence of this spirited conduct? The French withdrew from their territory, disavowed the measures of their General, and declared that they desired nothing more than to leave the Swiss in full possession of their rights.

Let us, said Mr. H., take warning by this energetic example of the Swiss. Let us now begin to resist. Let us declare that we wish to preserve peace with all the world; that we allow that peace is good, but that we believe independence is better; that peace is desirable, but not at any price—and then France will relinquish her aggressions.

At this point the committee rose and had leave to sit again.

**THURSDAY, March 29.**

## *Relations with France.*

The House again resolved itself into a Committee of the Whole on the state of the Union, and the amendment to the first resolution moved by Mr. SPRIGG, as to the inexpediency, under existing circumstances, of resorting to war against the French Republic, which amendment is, to strike out the words "French Republic," being under consideration,

Mr. GILES rose. It would be recollected, he said, that yesterday an attack had been made upon him, as indecent in its manner as it was in itself novel and unprecedented. He had been eight years in Congress, but he never before heard so direct and personal an attack. He was pleased, however, that it had been made, and only regretted that his state of health was such as, he feared, would not suffer him to go so fully into a refutation of the charges which had been brought against him as he could wish. He should, however, state such circumstances as would not only disprove the facts alleged against him, but also prove that the reverse of them was true. In doing which, he begged to be corrected if he should misstate any thing.

The gentleman from South Carolina (Mr. HARPER) had said "that it had been the object of himself and his associates, but particularly of himself, since the year 1794, to go to war with Great Britain, if possible, and to enter into a treaty of alliance, offensive and defensive, with France." This charge he declared to be entirely void of truth. He knew that slanders of this kind had been circulated in an artful manner through the United States from that time to the present, but he never before heard the charge publicly made. Being made, he would refute it, though it had been the foundation of two long speeches of that gentleman; for, whenever slander assumes an erect front, it is dissipated by the first ray of truth which meets it.

He trusted he should prove, by a reference to the debate which had already been quoted, and to others, that he had never been in favor of a war with Great Britain; and as to an alliance, offensive and defensive, with France, he never heard such a proposition in private conversation, and it will be allowed that no such proposition was ever publicly made.

The inconsistency of his conduct had been spoken of. The gentleman from South Carolina said it was unaccountable to him how the author of such animated sentiments as were delivered by him, (Mr. G.) in 1794, could now utter sentiments so grovelling and pitiful as those heard from him. He wished the gentleman had selected the passages to which he alluded, as he himself was unconscious of any difference between those which he then delivered and his present sentiments. From the year 1794 to the present period, he had uniformly declared it to be his opinion "that war is justifiable only in case of self-defence."

If boldness of assertion and dogmatism of expression would have availed, the gentleman from South Carolina must have been victorious; but he would beg to turn the attention of the committee to facts. That gentleman had first introduced the book of Mr. Monroe, the sentiments of which, he said, certain gentlemen, by their approbation of it, had adopted as their own. Mr. G. said he had read the book, and had found a great deal to commend in it, and little to condemn. Human nature was liable to err. If the gentleman himself were to review his own political history, he doubted whether it would be found to be always consistent. There might have been errors in Mr. Monroe's Ministry, but he believed they would be found to be as few as ever attended a negotiation which was encompassed with so many difficulties.

What, he asked, was the letter which the gentleman read from his book? It was a letter dated December 5, 1794. This was not a letter from Mr. Monroe to his associates, but to the Secretary of State; and, if any conspiracy was intended, General Washington and his Secretaries must have been the conspirators. He saw nothing more in this letter than a suggestion of what might be done if the Government thought proper. Mr. G. stated the situation of things at that time. In the autumn of 1794 the PRESIDENT laid before Congress a communication stating that nothing further could be done between this country and Great Britain by way of negotiation, and what remained to be done was left to Congress. There never was so threatening a state of affairs between Great Britain and this country, since the revolution, as at that period. At the time, therefore, when Mr. Monroe wrote the letter in question, he could not possibly know the state of affairs here, or whether they would come to an amicable settlement, and it was right in him, and it would have been criminal not to have done it, to state what it was likely might be done by France in our favor in case of extremities. He would only add one further remark, as he should have occasion to defend himself more than Mr. Monroe, which was, that he was at least as honorable a character as any of his calumniators; that while he was in France he effected much good, and that since he came away we had experienced much injury. If gentlemen would examine the state of things when he first went to France, what our situation was when he came away, and what it is now, he thought this would appear evident.

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The gentleman from South Carolina, doubtless, after examining all the remarks he could find of his, had brought forward a debate which took place in 1794. To follow the gentleman would be a disagreeable task; but as it would serve to elucidate a truth which it was necessary to unfold, he should undertake it, and show that, instead of these remarks being in favor of war, they were founded in the most zealous wish for peace, Mr. G. proceeded to read his remarks on Mr. DAYTON's motion for a sequestration of British debts, which, as the mover would recollect, he said, was a mere arrestation of British debts, which was proposed as a preventive of war, by holding in our hands what was within our power, as a pledge for the good behavior of that country, in order to preserve peace. Mr. G. stated the situation of things to be different from that which Mr. HARPER had represented it to be, as the Legislature had no knowledge of any negotiation being set on foot with Great Britain at that time. This debate took place on the 28th of March, when they had

been informed by the PRESIDENT that nothing further could be done by him, and the negotiation was not heard from until the 19th of April following. A part of the system proposed was an embargo, and another a suspension of intercourse with Great Britain. This bill passed this House, but was negatived in the Senate, by the casting vote of the VICE PRESIDENT who is now the PRESIDENT OF THE UNITED STATES; and if this bill had been carried into a law, the other regulation for arresting the British debts would evidently have been a proper measure.

Mr. G. did not believe that we stood upon such unequivocal ground with respect to France as we formerly stood upon with respect to Great Britain. This had long been his opinion; and though we have heavy complaints to make against France, they were not without just complaints against us, arising principally from the operation of the British Treaty, that fatal instrument to the United States.

Mr. G. read some of the articles of the treaty, and his former remarks thereon, and denied that there was any well-founded apprehension of war at the time it was under discussion. He also noticed the assertion which had frequently been made, of the French Directory receiving lessons from this country, which, he said, was too absurd to be believed.

Though he thought France had just ground of complaint against this country, he did not mean to justify her conduct towards us. He thought she ought to have received our Ministers; and, if they had not agreed, to have taken such measures as they thought proper. But this is supposing our Ministers clothed with sufficient powers; if they were not, there would be some ground of justification for their conduct. The PRESIDENT OF THE UNITED STATES is in the possession of information which would satisfy the Congress and the people in this respect, but he has thought proper to withhold it, and therefore he alone is responsible. There was one circumstance, he said, very unaccountable in this business. The PRESIDENT informed the House that he had received certain papers, and says, "I have considered these papers; I have deliberated upon them; I have not sent them to you, but require you to act upon them; I call upon you to take energetic measures, and request you will provide sufficient revenue." The House has been thus obliged to take up the subject in the dark. Is this, said he, a desirable state for the Legislature to be placed in? Is it not rather a degraded state? He thought it was; and when party rage shall subside, and it shall be seen that the Executive is pursuing hostile measures, and keeping back all information from Congress, this conduct would be deemed extraordinary. He was far from saying the Executive had not done what was proper. He could not say so, because he had seen no evidence upon which to form a judgment; but it left a strong impression on his mind that something was not correct, which was the reason the expected papers were not sent.

He also again referred to what the PRESIDENT says in his late Message with respect to the change of circumstances, which he still thinks he meant to apply to a change from neutrality in the country to something like war. And in these circumstances, said he, are the people of the United States to be led on from step to step, until they are irrevocably involved in war? And are the people to be told that this is a trifling question? When all the country is in commotion, and when the people are preparing their petitions for peace, (which he thought very proper,) he was not willing to proceed until the present question was decided.

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He would suggest another idea. He had heard a variety of observations from different quarters, that at a period not very far distant from the present, a more intimate connection between this country and Great Britain than at present exists, is likely to take place. And yet gentlemen are perpetually crying, What! give up your independence! Do you prefer peace to independence? He would answer, No; for independence he should be ready at all times to make war. But are we, said he, called upon to fight for speculative independence, and, at the same time, willing to commit our real independence to the mercy of another nation? Where, he asked, is the difference between depending upon the French or British nation? Except, indeed, (as he believed was the speculative opinion of some gentlemen,) there was an intention of assimilating the British and American Governments.

Gentlemen talked of newspapers. He would say a word on that subject. There are two papers, said he, printed in this city, which not only breathe defensive, but offensive war of the worst kind. One of these papers, he believed, was particularly countenanced by the Government; the other was printed by an infamous scoundrel, a British subject—a paper which he was sorry to find too much countenanced. This paper not only breathes war, but exterminating war. And this paper issued from a British press, spreads its baneful sentiments throughout the country. He proclaimed this fact; and he should think himself a traitor to his country, not to proclaim it.

Mr. G. would say a few words as to the effect which the late French decree would be likely to produce upon this country. The committee had been told, by the gentleman from South Carolina, that it would effectually destroy our revenue. He believed he was mistaken in this. To France and to those nations who may be supposed to be under her influence, we last year exported to the amount of \$36,000,000, and to Great Britain \$8,000,000; two-thirds of which are re-exported to the countries above mentioned.

Against whom, then, are we to arm? Against those who receive \$36,000,000, for the protection of the \$8,000,000, two-thirds of which are re-exported. How, he asked, would this operate? Would the decree stop the importation of British goods? No, it might lessen them, but would not stop them, as the British would become, in some measure, their own carriers; and, as their vessels paid a higher duty in our ports than our own, it is probable our revenue would not be greatly lessened. It was possible, however, that there might be some abuse of the decree in carrying it into execution.

He was as much opposed to the decree of the Executive Directory as any man, but not so much



on account of any loss we shall sustain from it, as from its being an attack upon our neutral rights, which he preferred to money. The British Treaty had authorized two acts that took place in January last, which will transfer the carrying trade from American to British vessels; but those acts will not affect our vessels going to France, Spain, or Holland. He supposed, therefore, that our commerce would not be very materially injured by the French Decree. He did not know but it would even be upon a better footing than at present, as there would be more security for it. At any rate, no rash measures ought to be taken, until we see how the decree is to be executed.

He trusted the gentleman from South Carolina was, by this time, pretty well satisfied as to the inaccuracy of his statement. Before gentlemen make charges of inconsistency against others, they should be sure that they themselves stand firm in that respect. That gentleman ought to have looked back upon his own conduct in 1792 and 1793. He had been informed that that gentleman was at that time a member of an affiliated society of Jacobins. [Mr. HARPER said it was not true.] He believed, however, all the gentlemen who knew him at that time would do him the credit to say, that he was one of the most eloquent declaimers of that day in favor of the rights of man. But his inconsistency had even appeared within these two days. When the present proposition was first laid on the table, he rejoiced that there was a prospect of all uniting in manifesting a disposition for peace; but the next day he used arguments which went to the destruction of the resolution.

The gentleman from Massachusetts (Gen. SHEPARD) had made a remark which he must notice; it was, that he assumed to dictate to others what was proper to be done. Of this he was not justly chargeable. That gentleman told the committee he was a warrior; he venerated him as such—he was a warrior in a glorious cause; but whilst he venerated him as a soldier, he had to regret the political prejudices under which he labored, which could suffer him to attribute a motive of that kind to him. The gentleman from New York (Mr. BROOKS) had also told the committee he had also been in service in the Revolution. This he did not know before he heard it from the gentleman himself. But he had since been told he was engaged in the honorable and humane employment of clothier to the army. [Mr. BROOKS said, he had the honor of taking up arms in the defence of his country, which he carried until he was taken prisoner. He was a prisoner eighteen months, and when he was set at liberty he found his vacancy was not preserved for him. He then served his country in a different line, and he believed in a manner which entitled him to at least as much merit as he had assumed. He believed that providing the army with clothing was an essential part of the service; but, (said he, with great warmth,) if the gentleman doubts my being a soldier, I am here to answer him. A loud cry of order, and Mr. B. sat down.]

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Mr. G. said, he had received this information from one of the gentleman's friends. He made the inquiry, because he did not know what services he had performed; and he assured him the information which he had received had tended to raise, rather than to sink him in his estimation; but he was not alarmed at being told he was a soldier.

It had been said of the resolution before the committee, that by stating we are not ready to resort to war against the French Republic, that it might be implied we are ready to go to war with some other nation. That this idea might be done away, if gentlemen will permit the words "against the French Republic" to remain. If the mover would give his consent, he should have no objection to add the words, "or any other nation."

Mr. HARPER hoped, as he had been particularly alluded to by the gentleman who had just sat down, he should not be considered as trespassing on the patience of the committee in an unreasonable manner, if he made a few remarks in reply, though he did not mean to do it generally, as he perceived others had undertaken to do that, whom he was conscious were better able to do it than himself. He was called up merely by the gentleman's personal observations.

In the first place, he was charged with great indecency in bringing forward and commenting upon the gentleman's own speech. He left it to the committee to determine with what propriety this complaint came from a person who has omitted no opportunity of attributing the worst of motives, not only to gentlemen in that House, but to others out of it; neither age, character, nor absence, have preserved gentlemen from his censure; from a person who has always indulged himself in the most violent philippics against the Executive of the United States, and all who concurred in his measures; from a person who, when gentlemen declare they are for peace, says he does not believe them; from a person who has continually charged all those with inconsistency who differed in opinion from him, not by examining their conduct, but by making insinuations against them as to their debts, or to the way in which they may have acquired money, or by following them to their youth, before they became members of this House? He thought the gentleman ought to attend to the old, but just adage, "He who lives in a glass house ought not to be the first to throw stones." If there could be a man more regardless than that gentleman of all the rules of decorum in debate, he had never heard him.

As to the charge of inconsistency in his conduct, it had often been made in private, and as often contradicted; but as it is now brought into public view, he would say a few words on that point.

It was said, that in 1791 and 1792, he was a member of a Jacobin society, and a warm declaimer in favor of the rights of man. What was said respecting his being a member of a Jacobin society, is one of those falsehoods of party, which, though known to be unfounded, is still reported.

The fact, Mr. H. said, was this, which he never concealed: In the year 1791, there were instituted in Charleston a variety of clubs, (there were several before that time;) of many of these, being a young practitioner of the law, and desirous of extending his acquaintance; and procuring business, he was a member. Among these was a society called a Patriotic Society. It was composed of French and American citizens; and he and seven or eight other young practitioners

became members, and attended one or two evenings; but, finding it composed of persons from whose society much improvement could not be expected, they never went afterwards; and so anti-jacobinic was their conduct considered, that they merited and received an expulsion from the society.

As to being a declaimer in favor of the rights of man in 1791 and 1792, he owned he partook of that enthusiasm which at that time raged in America, because he was deceived. He then believed the French had been unjustifiably attacked, but he now found that they were the first assailants. He then believed that the treaties of Pilnitz<sup>[30]</sup> and Pavia, of which they had heard so much, were realities; but he now found them contemptible forgeries. With respect to other parts of the French Revolution, he then believed that the principal actors in it were virtuous patriots, but he had since discovered that they were a set of worthless scoundrels and mad-headed enthusiasts, who, in endeavoring to reduce their fallacious schemes to practice, have introduced more calamities into the world, than ages of good government will be able to cure.

Mr. H. said, he never was a declaimer in favor of what gentlemen meant by the rights of man. He held them and their author in merited contempt. The pretended factitious rights of man to which gentlemen referred, were the rights of a few noisy demagogues over the rights of the people. Though he always believed this, he did not know it so well, in 1791 and 1792, as he knew it in 1794, and since. And, therefore, he was not a declaimer in favor of what the gentlemen mean by the rights of man, but he was a warm admirer of the French Revolution, when he thought the object was the establishment of the true rights of man; but, since he discovered that this was neither the object nor would it be the effect, instead of viewing that Revolution as a blessing to the world, which he once thought it, he now viewed it as the greatest curse that ever afflicted mankind; as a phial of wrath from Heaven, the bitterest that ever was poured out upon the earth.

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There was a certain species of the rights of man of which he had always been the defender, in favor of which his voice would always be heard. He had, in a well-known instance, advocated the rights of his fellow-citizens in the best manner he was able, and in a manner which had obtained for him their thanks and their remembrance. How he conducted that defence, was well known to some of his colleagues in that House.

Mr. H. denied that he had been inconsistent with respect to the proposition before the committee. He then noticed what had fallen from Mr. GILES with respect to the decree of the French Directory not being so inimical to this country as it had been supposed to be. Mr. H. charged Mr. G. with being much mistaken in supposing that only the amount of eight millions of dollars was exported to Great Britain and her dominions, or that thirty-six millions of dollars were exported to France, and to countries connected with her. Out of the fifty-one millions exported from this country during last year, it appeared by the statement before them that eight millions five hundred thousand were sent to Great Britain; nine millions to the Hanse towns; to France and her dominions eleven millions. But, he asked if the gentleman from Virginia knew the reason why this amount to France appeared so large? If not, he would tell him. All the produce shipped for the British West Indies in 1797, was almost constantly cleared out for French ports, in order to avoid the effects of the plundering decrees of the French West Indies, and this was the reason why six or seven millions appeared under this head, which ought to appear under another. But the gentleman seemed to suppose that all which did not go to Great Britain went to France, and countries connected with her. At least twenty millions, out of fifty-one millions, went to countries over whom France had no power; and, when to these were added what was sent to Great Britain, and six or seven millions were deducted on the ground he had mentioned, the gentleman would find the balance was not very considerable.

Mr. H. said he should not notice what the gentleman had chosen to say respecting the British Minister, except as to the improper manner in which he had called a confidential person a confidential agent of the Minister, and to say that he could not see any analogy between this case and that of the French Minister, who fitted out privateers and levied troops in our country without permission from the PRESIDENT OF THE UNITED STATES.

The gentleman from Virginia had entered fully, not only into a justification of himself, but of his friends. How far he has acquitted himself and them from the weighty charges which he had exhibited, he was not the proper person to judge; he left the public to determine. He must, however, beg leave to correct him in one of his facts. He informed the committee that the letter of Mr. Monroe, which had been quoted, was written in December, 1794, whereas it was dated Paris, September 10, 1795, long after that Minister had been officially informed by our Minister in London, that the British Treaty was concluded and signed; yet this letter recommends the taking of the posts, the invasion of Canada, and the cutting up of the British commerce by privateers. He did not say that this letter was a proof of conspiracy, but of a system of policy which was very contrary to a peace system.

But the gentleman says, he (Mr. G.) never proposed war against Great Britain. He knew it. The gentleman always spoke of peace, but pursued measures which led to war. He did not speak of war when he recommended sequestrations, confiscations, &c., because he loved peace. He did not talk of war; but, whilst he and his friends opposed measures of defence, they were in favor of every measure which led to war. While they were irritating a nation to war, they opposed the building of the frigates. He could not say what were the views of gentlemen in doing this, but he would say what appearance it had on his mind, when he was far removed from the seat of Government. He thought it seemed as if gentlemen believed it would be well to get to war, and then rely upon their favorite nation for support.

Mr. BROOKS again complained of the insinuation which Mr. GILES had thrown out against him,

which he said was not called for by any circumstances under consideration.

Mr. GILES assured him he mentioned the fact alluded to, out of no disrespect to him. With respect to the date of Mr. Monroe's letter, he had been deceived by a leaf being folded down at the letter, the date of which he had mentioned. The gentleman had said that he had attributed improper motives to the PRESIDENT OF THE UNITED STATES. This he denied. He had said, he took measures which he did not approve, and he hoped a difference of opinion from any man would not be imputed to him as a crime. With respect to the explanation which the gentleman had given of his own conduct, he was glad to hear it. It was to obtain this explanation, that he mentioned the reports which he had heard. Mr. G. renewed the assertion, that he and his friends always had been willing to put the nation in a state of defence. As to the frigates, he gloried in his vote against them; but with respect to the use of them, the gentleman was mistaken. They were intended to be sent against the Algerines only.

## FRIDAY, March 30.

### *Relations with France.*

Mr. ALLEN observed, that when the PRESIDENT OF THE UNITED STATES sent his first Message to the House, announcing the receipt of despatches from our Commissioners in Paris, he stated that it would take some time to decipher the despatches which he had received. Some days afterwards, on the 19th instant, he sent another Message informing the House, "that it was incumbent on him to declare that he saw no ground of expectation that the object of their mission could be accomplished on terms compatible with the safety, honor, or the essential interests of the nation."

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It had been observed, in the course of the debate in the Committee of the Whole on the state of the Union, and not in the most candid and proper manner, that the papers received from our Commissioners ought to have been laid before the House, and the PRESIDENT had been charged with withholding them. He supposed gentlemen would have been satisfied, and he was, with the information which the PRESIDENT had already communicated, that our Commissioners are not received, and that France refuses to hear us. But, though he was himself satisfied with the information he had at present, he believed there were many gentlemen in the House who wished for more, because there is a paper printed in this city, which is continually insinuating that there is something in these despatches which, if they were made known, would show that the conduct of the Executive has been improper; because he found that paper often speaking the language of gentlemen in this House, and which spoke it, he believed, on this occasion; and because, if this is not true, he wished the people to be undeceived; or if true, that he and those who thought with him, that no such blame existed, might be convinced of their error; he proposed the following resolution, to which he hoped there would be no objection:

*"Resolved, That the PRESIDENT OF THE UNITED STATES be requested to communicate to this House the despatches from the Envoys Extraordinary of the United States to the French Republic, mentioned in his Message of the 19th instant, or such parts thereof as considerations of public safety and interest, in his opinion, may permit."*

Mr. S. SMITH said, he should have no objection to the resolution, if the latter part of it was struck out. If the PRESIDENT thought it necessary that any part of the correspondence ought to be kept secret, he would, as is usual in such cases, inform the House that this was the case, and the galleries would accordingly be cleared. The communication would then probably be referred to a select committee, and such parts of it published as might appear proper.

Mr. ALLEN observed, that there might be parts of this correspondence which it would not be proper to communicate to this House, even confidentially. If this was not the case, the PRESIDENT could still communicate such part of the correspondence in confidence as he may think proper. He wished to leave the PRESIDENT to act according to his discretion. Without some portion of this discretion being allowed him, the Government could not proceed.

Mr. GILES said, no part of the correspondence ought to be kept from Congress. He was not himself satisfied as to the sincerity of the proceedings of the Executive of the United States towards France; he wished, therefore, not only to have the correspondence of our Ministers, but the instructions which were given to them. Mr. G. defended what he had yesterday said about the PRESIDENT and these papers, and hoped if the House called for the papers at all, they would call for all the papers, and the instructions upon which our Ministers acted.

Mr. LIVINGSTON moved to amend the resolution by striking out all the words after the 19th instant, and insert after the words "this House," "the instructions to and." This was not a time, Mr. L. said, to stand upon trifling punctilios, which might be proper upon ordinary occasions. They were now called upon to say whether the country should be preserved in peace or go to war; yet the correspondence, which ought to convince the House of the propriety of acting in this or that way, is withheld. How could they say to their constituents, without this information, all has been done that could be done to preserve the country in peace, but war was inevitable? And if war is rushed into headlong, without due consideration, and consequently without ascertaining whether it is just or not, can it be expected that the wishes and aids of the people will be heartily engaged in such a war? They certainly would not.

It would be no answer to say that our negotiation with a foreign power would by this means be exposed. The communication might be made with closed doors, and no one could suppose any thing would be exposed by the members of the Legislature which the good of the country

requires to be kept secret. But gentlemen wish this House to repose the strictest confidence in one branch of the Government, at the same time that they say no confidence can be placed in the integrity of this House. [Mr. ALLEN exclaimed, who said it?] Mr. L. replied, that this was a fair inference from what had been said.

The latter part of the resolution proposed to transfer a right to the PRESIDENT, which it ought itself to exercise, as to judging of what it was proper to publish in consideration of the public safety and interest. If this power was given to the PRESIDENT, he might withhold such parts of the papers as might prevent a correct judgment being formed upon them. He was not himself disposed to cede to the PRESIDENT the right which he was sent there to exercise for his constituents, of judging of so important a question, as a question of peace or war. He could not basely surrender this right. If the papers were called for at all, he hoped the whole would be called for, in order that the House might form that sound and temperate judgment for which the present crisis so loudly calls, and for which the people of the United States so anxiously look. Indeed, to pass the resolution unamended, would, in his opinion, be a shameful dereliction of their rights. [Pg 242]

Mr. BAYARD thought the propriety of this call upon the PRESIDENT was extremely doubtful, and, as it regarded the instructions given to our Ministers, wholly improper. With respect to the communication of the despatches, it was wholly a matter of Executive discretion to judge whether it would be proper to communicate them or not. He was one of those who had so much confidence in the Executive, as to trust to his candor, understanding, and integrity, to determine upon the propriety of what he should send to, or withhold from, this House. At a time when it is not known that our negotiation with France is closed, it would be extremely imprudent to have the instructions of our Ministers laid before this House; as what was sent here, notwithstanding any vote of secrecy, would not long be kept secret. It would soon be in Europe, and might do us essential injury, by disclosing our ultimatum to France, and by showing it also to the world. It was in vain, Mr. B. said, to suppose that one hundred men could keep a secret for any length of time, however important it might be. To elucidate that assertion, he referred to the divulging the secret of the British Treaty by a Senator.

But the gentleman from Virginia (Mr. GILES) has no confidence in the Government of this country with respect to its negotiation with France; and in order to try the sincerity of the Executive, he wishes for the papers. Does the gentleman by this mean to give the lie to the Executive? Because in his Message he has told the House that he has given power to our Ministers to settle our disputes with the French Republic, and to "make all reasonable concessions." What more does the gentleman wish? Does he wish unreasonable concessions to be made? Surely he does not. Did any thing appear in the conduct of the French Directory to show that our Ministers were not possessed of ample powers? No; the Directory never knew any thing about their powers, at least so far as any official communications had been received on the subject. There could not, therefore, be any ground upon which the gentleman could rest his suspicions. He hoped, therefore, the amendment would be negatived.

Two or three gentlemen were on the floor together.

The SPEAKER said, the amendment to insert "the instructions to and," would come first under consideration.

Mr. HARPER said, he did not mean at this time to enter into the merits of the present question. It was important, and presented itself in a new light to the House. The original motion he was ready to have voted for; he did not know whether he might not vote for this. But he wished time to consider of it. He therefore moved the further consideration of this question be postponed till Monday.

Mr. ALLEN had no objection to the postponement, except the mover of the amendment would permit it to be amended by a modification of this sort: "Such parts of those communications as were communicated to the French Government."

The question for postponement was put and carried—47 to 41.

### **MONDAY, April 23.**

The SPEAKER attended to-day, and took the chair.

#### ***Stephen Cantrill.***

On motion of Mr. W. C. CLAIBORNE, the House resolved itself into a Committee of the Whole on the report of the Secretary of War on the petition of Stephen Cantrill; and the report and papers accompanying it were read. The report was as follows:

"The Secretary of War, to whom was referred the petition of Stephen Cantrill, respectfully reports: That the services for which the petitioner prays compensation to himself and a company which he commanded, were performed in the month of September, 1794, on an expedition conducted by Major James Orr, into the Lower Cherokee country, which issued in the destruction of two considerable Indian towns, the Running Water and Nickajack, the killing of a number of Indians, and the taking about twenty prisoners.

"That the report of Major Orr to Governor Blount, dated at Knoxville, the 24th September, 1794, shows, that this expedition marched on the 7th of the same month, and was ordered by General Robertson, of Mero district.

"That the orders of General Robertson for this purpose were afterwards communicated by himself to Gov. Blount, in a letter dated the 8th October, 1794, detailing his reasons for the order.

"That letters from Governor Blount to the Secretary of War, dated the 22d of September and 2d of October, 1794, as well as the copy of an order, which he states to have been the last given by him to General Robertson, previous to this expedition, evince that the Governor did not sanction the measure.

"That the Secretary of War, previous to Major Orr's expedition, in a letter to Governor Blount, dated the 26th July, 1794, strongly discouraged the idea of destroying the lower towns of the Cherokees, in the following words, viz: 'With respect to destroying the lower towns, however rigorous such a measure might be, or whatever good consequences might result from it, I am instructed specially by the President to say, that he does not conceive himself authorized to direct any such measure, more especially as the whole subject was before the last session of Congress, who did not think proper to authorize or direct offensive operations.' And that as soon as the destruction of the Running Water and Nickajack was communicated to him, the Secretary strongly disavowed any participation in the business, by his letter to Governor Blount, dated the 22d of December, 1794, in these words, viz: 'The destruction of the lower Cherokee towns stands upon its own footing; that it was not authorized is certain.'

"That the President at all times, as well before as after this expedition, endeavored to confine the protection of the frontier of the South-western Territory to defensive operations, and to restrain from those which were offensive.

"That, on the whole, it appears, the services for which compensation is prayed by the petition of Stephen Cantrill, were performed on an expedition, offensive, unauthorized, and in direct violation of the orders from the President to Governor Blount, by whom also they were not sanctioned.

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"The documents referred to, and others connected with the subject, are herewith presented, numbered from No. 1 to 9, inclusive.

"All which is respectfully submitted to the House of Representatives.

"JAMES McHENRY.

"WAR OFFICE, *April, 1798.*"

The reading being finished, Mr. W. C. CLAIBORNE said, that, in his opinion, this claim was founded on the principles of justice; and he trusted every member who had attended to the reading of the documents, must accord with him in opinion, that the Nickajack expedition, undertaken by Major James Orr, in 1794, into the Lower Cherokee country, was authorized by General Robertson; and it remains now to be decided, whether soldiers shall not be entitled to pay until they have previously assured themselves of the legitimate authority of their commanding officer. At the time when this expedition was set on foot, a war raged between the United States and the Cherokee nation of Indians, the horrors of which bore hard upon the district of Mero; the very existence of the settlement was threatened; scarcely a day passed without some one or other of the inhabitants, or of their acquaintance, being murdered. Information was received that the Indians were embodied in order to carry the war into the settlement. What was the General to do? Was he to stand still without making any attempt to avert the danger? The safety of the people required him to act, and he struck the first blow, which was a defensive measure authorized by the usage of all nations. The citizens on this expedition obeyed the command of their officer; they did not think it necessary to inquire by what authority he acted; all for them to be assured of was, that he was an officer of the United States, and this they well knew, as this was not the first time they had served under him. Without a discipline of this kind no military operation could be carried on. General Robertson acted also under the authority of Governor Blount, who acted under the orders of the PRESIDENT OF THE UNITED STATES. Having then performed this duty—a duty, too, which put an end to a war which might have cost the United States a million of dollars—he trusted the petitioners would be compensated for their services. The amount, he believed, would not be more than about \$4,000, as the party was out only twelve days. To effect this purpose, he proposed the following resolution for the adoption of the committee:

"*Resolved*, That the proper officers be directed to settle the accounts of the militia who served on the expedition commanded by Major James Orr against the Cherokee Indians, in the year 1794."

This resolution was agreed to without opposition. The committee rose, and after some few observations, it was agreed to in the House, and a committee appointed to report a bill accordingly.

## TUESDAY, April 24.

Mr. W. C. C. CLAIBORNE, from the committee appointed, reported a bill directing the payment of a detachment of militia, for services performed in the year 1794, under Major James Orr, which was twice read and committed.

## *Provisional Army.*

A bill from the Senate, authorizing the PRESIDENT OF THE UNITED STATES to raise a provisional army of 20,000 men, was read the first time; and upon motion made to read it a second time,

Mr. NICHOLAS objected to the second reading of the bill, as he believed it possessed a principle which could not be assented to. He did not believe it was necessary to pass a bill of this sort under any possible modification. The highest act of Legislative power was, by it, proposed to be transferred to the Executive, viz: the power to raise an army, which he was to exercise at his pleasure. If an army was necessary, the Legislature ought to raise it; but he did not think it was necessary at present. Indeed, when discussing the bill for providing a naval armament, gentlemen had said that members had been willing to make preparations for defence on the land, where there was no danger, but were unwilling to do it at sea, where the greatest might be expected. He did not believe there could be any necessity for going into a measure of this kind at the present session. In case of predatory attack, the militia would be equal to repelling them. Mr. N. said he lived in a part of the country perhaps more defenceless than any other; but, so far as he or his constituents were concerned, he did not wish for a force of this kind. He was willing to confide for defence on the militia of the country.

Mr. OTIS thought it very extraordinary that the gentleman from Virginia should endeavor to surprise a part of this House into a decision upon this bill in this stage of it. He hoped he would consent to its taking the usual course. The gentleman had gone into the merits of the bill; he could not follow him, because he had not heard it read; so far as he did hear it, he was of opinion that the gentleman had anticipated objections which did not lie against it. He seemed to suppose that this bill declared that a standing army should be raised. It does no such thing; it only declares that if existing circumstances shall make it necessary, then the PRESIDENT shall raise an army not exceeding a certain number of men. It may happen that the necessity may not exist; but the gentleman from Virginia must be able to fathom the intentions of France further than he could pretend to do, if he could say that no such necessity would exist. If what was said by the agents of that Government to our Envoys could be relied on, there was a direct threat to ravage our coasts. He hoped, however, no invasion would take place; but, when he said this, he calculated upon the French acting as reasonable beings, but perhaps he calculated delusively. Indeed, they are now threatening the invasion of a country, where one may suppose they would have as little chance of succeeding as in this country; and was the idea, then, to be so much scoffed at, as not to suffer a bill, intending to provide against it, to be read a second time? If the arms of our citizens were to be tied up, and our militia were many of them without arms, with what should we oppose such an attempt, if it were made? What, said he, is to prevent Victor Hugues sending over two or three frigates? It had been said that he expected open war, and that he was ready for it. In short, he thought it would be the most disgraceful conduct that ever was attempted in that House, if the bill should be rejected without a second reading. It would be in vain to talk of unanimity, if a bill from the Senate was to be treated in this way. If the gentleman persisted in his motion, he trusted he would find himself nearly alone.

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Mr. GALLATIN wondered that the gentleman from Massachusetts should be so greatly surprised at a motion of this kind, because if he had attended to the rules of the House, he would have found that it was a course expressly prescribed by them. It had been acted upon before during this session. The principle, he said, was well understood. When a member disapproves of the principle of a bill altogether, and does not wish to go at all into a discussion of the detail, he moves to reject it before it goes to a second reading.

This bill goes to authorize the PRESIDENT to raise an army. He did not know what was meant by a provisional army. He did not find any thing said in the Constitution of the United States relative to provisional armies, or of giving the PRESIDENT power to raise armies. He found mentioned there no other kind of defence than an army and militia. It says Congress shall raise and support an army, not provide for the raising of an army; but this bill is to enable the PRESIDENT OF THE UNITED STATES to raise an army. The constitution has declared that the raising of an army is placed in Congress, but this bill goes to declare that this power shall be vested by law in the PRESIDENT. That is the principle of the bill: and if Congress were once to admit the principle that they have a right to vest in the PRESIDENT powers placed in their hands by the constitution, that instrument would become a piece of blank paper. If it were to be admitted in one case, it would be admitted in another; and, if admitted in one department, it might be admitted in another. The power to raise taxes, he said, is contained in the same article of the constitution which says Congress shall raise armies. And if they could delegate the power of raising an army to the PRESIDENT, why not do the same with respect to the power of raising taxes? He supposed the House would next hear of provisional taxes, to be raised if the PRESIDENT shall think fit. Mr. G., therefore, thought the principle inadmissible. If the circumstances of the Union required an army, let it be raised; if not, he wished to give no power to raise it—especially, as the PRESIDENT, if he saw necessity, could call Congress together, if he should find that the circumstances of the country required it. Mr. G. thought the House had already decided that no additional army was necessary at present, in agreeing to an additional regiment of artillery; as the select committee, when they brought in that bill, had the report of the Secretary of War before them, which stated, besides the regiment of artillery, that other additional force would be necessary; and having reported no other, it was to be supposed they thought no other necessary. But, if it was thought the House had not gone far enough, he was willing to go farther, but not willing to transfer their power to judge of the propriety of raising an army.

Mr. DANA hoped this bill would not be rejected on its first reading. It required no labored

arguments to prove that the motion might be made; but more than had been adduced to show that it ought to be adopted. He thought the gentleman from Massachusetts ought not to have been surprised at this motion, because it was best calculated for exciting alarm. It was said the Senate proceeded in a similar way on the bill sent up from this House for a repeal of the stamp act; but that question had already been agreed upon in the Senate on a distinct proposition, and there was, therefore, no necessity for going again into it. The gentleman from Pennsylvania had said that when the House agreed upon an additional regiment of artillery, they negatively decided against any other standing force. The gentleman might put what construction he pleased upon that vote, he could assure him for himself that he had no such idea when he voted.

This bill, Mr. D. said, provided for the raising of a regular force, in case the PRESIDENT shall think the situation of the country requires it. He is also authorized to accept of the services of the volunteer corps. The bill could be amended in any manner which gentlemen thought proper. But the gentleman from Pennsylvania does not know what a provisional army means. He believed this was no new principle. He believed it was acted upon when the three additional regiments were raised to the then existing corps. It was in principle the same as when an army is directed to be raised, but where the PRESIDENT has power given him to suspend the raising of it, if he shall see it necessary.

Mr. SEWALL said that, though the present motion be not irregular in point of form, yet it is a manner of proceeding very objectionable at this time. His colleague had complained of this motion being a surprise upon the House. He had good reason so to consider it. And the House will consider whether it is expedient, without entering into a consideration of the bill, without seeing whether any alteration could be made in it, so as to render it more agreeable to gentlemen, thus to attempt to destroy the bill. What was the motive of the gentleman from Virginia in making the motion might easily be discovered. He had obtained leave of absence, which might have a tendency to hurry him in his political course. He wished to be heard on this subject, but this hurry of his to return home ought not to hurry the House in its proceedings. Those gentlemen who had determined to take this course had the advantage of others who were unprepared for such a motion.

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Mr. HARPER believed, notwithstanding what had been advanced by the gentleman from Pennsylvania, (Mr. GALLATIN,) that this was a very unprecedented measure; because however prepared the House may be on some occasions, at the first blush of business, to decide upon the abstract principle, yet it was perfectly novel in their proceedings to reject a bill on its first reading, which contains such a variety of propositions, and which is capable of such a variety of modifications as the present. It was also as little consonant with the present situation of the country as it was with their usual modes of proceeding. The allusion to the decision on the bill for repealing the stamp act (as had been shown) was no way applicable. He could see no other view in a proposition of this kind but a determination to resist every measure for the defence of the country. If the intention had not been to destroy the bill, it would have been suffered to have taken its usual course, and attempts would have been made to amend it. If a provisional army was not liked, gentlemen might have had the army immediately raised; or, if 20,000 men were too many, fewer might have been proposed. If gentlemen did not think the army immediately necessary, and did not choose to leave it with the PRESIDENT to judge of that necessity, they might make it to depend upon a declaration of war by France, on an invasion, or in case Victor Hugues were to bring his troops, or send his threatened frigates against us, or if an insurrection should be excited by our enemy, then the PRESIDENT should be empowered to raise an army.

But gentlemen say this bill ought to be rejected, because it is unconstitutional. Could gentlemen be serious in making this objection? Were troops ever raised in a different manner? And if they had the power to authorize the PRESIDENT to raise troops immediately, they could certainly do it under such contingencies as they thought proper. Did not Congress intrust the PRESIDENT with the discretionary power of borrowing money, of, in some cases, fixing salaries, &c., which powers were equally vested in them with the power of raising armies; and this must be the case, except gentlemen insist that Congress should itself do all the acts committed to it; and if so, they must always be in session.

But the gentleman from Pennsylvania says, that if this power be delegated to the PRESIDENT, Congress may as well intrust the PRESIDENT with the power of raising provisional taxes. He had no hesitation in saying, that he believed this might be done; that the House might determine upon a tax, and authorize the collecting of it, only in case the PRESIDENT should find it necessary, or in case a certain event should take place.

With respect, then, to the expediency of the measure—he did not speak of the expediency of raising 20,000 men, because any other number might be determined upon—but as to the thing itself. What is the internal and external state of this country? Do we not know that the enemy has in view a plan upon which they place great reliance—of gaining over to their cause a certain class of men, who abound in the Southern part of this country, and by whose means they intend to subjugate or destroy the country? We do know this—gentlemen from the Southern States know it; yet they say it is impossible to raise any regular force to repel the enemy. He could not believe, that when we had to meet an enemy, who has always fought by means of domestic insurrection, who is now subverting the most ancient Governments in the world by these means, it would be consistent with any maxim of common sense to be unprepared for the worst.

What, said he, is our external situation? Do we not see the nation with whom we are at variance find quarrels with every country who is not strong enough to resist her? Does she not injure us on every side? Do we not hear of depredatory threats, and the mischiefs she has the power of doing us, urged as reasons why we should submit to her? And yet, after being told of these designs,

shall we sit with our arms folded, and make no defence? For the measures already taken will be nothing without this. Fortifications would be nothing except supported by a sufficient number of infantry and cavalry.

What, he asked, is the situation of the West Indies? Were they not told that Victor Hugues, with 5,000 of his best troops, is ready to make a blow upon the Southern country, whenever the word of command shall be given? They knew that these troops existed; they had been seen, and the desperate character of their leader was also known. Yet, with this enemy upon our threshold, within four or five days' sail of us, we still fold our arms, and say we will make no defence.

When he reflected upon these things, he could not help deploring that fatal blindness, that stubborn spirit of opposition, in certain gentlemen, which could hide from their view the danger of our present situation; that, at a period when the veil is rending from before the eyes of the community; when those who have been the most blind out-of-doors begin to see, that those gentlemen in this House, who, from their ancient birth and fortunes, might be supposed to possess the true American spirit, should still persist in their blind, their destructive course, was greatly to be lamented. And though he could not doubt the fate of this bill, yet that there should be a few men found supporting measures which tend directly to the destruction of the country, he could not help lamenting.

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Mr. BALDWIN did not agree with the gentleman who had just sat down, that the present motion was either unprecedented or improper. When it is proposed to make a law on any subject, it presents itself to discussion on two grounds, the principles of the law and the details. The proper stages to debate the general principle on which the law is to be founded, by the rules of this House, are, when it is proposed to introduce the law, and at the third reading, when it is considered as finished, and on its passage; the intermediate stages of the discussion are all supposed to be employed to settle and adjust the detail. He had often regretted that members, having been accustomed to different modes of proceeding in their State Legislatures, were so apt to disturb and keep unsettled their modes of proceeding in this House. He knew it was sometimes a practice, after a bill had been read the second time, and was referred to be shaped and formed by free discussion in Committee of the Whole, a member would rise to amend the bill by striking out the first section, declaring, at the same time, that he made the motion for the purpose of destroying the bill—a mere law fiction, under color of detail and amendment, to contest the original principle and destroy the bill. Without doubt the commencement of the business is the regular stage to contest the principle. If it originates in this House, it is on a motion in Committee of the Whole, expressing in general terms the expediency that such a law should be provided; if it comes from the Senate, the same question presents itself after the first reading, in the words of the present motion, which are the very words prescribed by the stated rule of the House. If on this question the majority of the House appear in favor of the principle of the bill, it goes on through the stages of its detail and formation, and at the third reading the general question occurs again, shall the principle, detailed as it now appears, pass into a law? He was sure no member could object to the fairness and propriety of the present motion.

As to the principle of the bill, he must say, it did not meet his approbation. If the House is convinced it is necessary to raise an Army of twenty thousand men, as the bill now proposes, they ought to say so at once, and let it be done; if they are not convinced that it is necessary, the law ought not to pass, the Army ought not to be raised till they are convinced it is necessary. The constitution made the Legislature the sole judge on this subject. The present bill says it is not necessary to raise this Army now, but perhaps it may be before Congress meets again, it therefore proposes to transfer the right of judging on this subject to the Executive; he thought it a very improper transfer of Legislative power. It has been said that all our troops are raised thus provisionally. If attention is paid to those laws, it will be seen that they did not pass till the Legislature was convinced that circumstances then required the troops to be raised; a clause is added, that if circumstances should alter so as to make the troops unnecessary, the PRESIDENT might forbear to raise, or discharge them; it gives him power to disband the Army, but not to raise one.

Mr. RUTLEDGE said, as the principal objection against this bill seemed to arise from an idea that the militia would be found sufficient for every purpose of defence for this country, he thought gentlemen had better concur in letting the bill go to a second reading and be committed, and before it again came under consideration, the militia bill would probably have been determined upon. He was pleased to hear gentlemen say that the country must be defended, and if an effective militia could not be had, it must be done by a force of this kind. For his own part, from the proceedings already had upon the militia bill, he had not much to hope of its passing; and if not, gentlemen would certainly see the necessity of some additional standing force. Mr. R. could not conceive what objections could have been induced by the gentleman from Pennsylvania (as he was not in the House when he spoke) on a constitutional ground. Mr. R. adduced, as in point, the law enabling the PRESIDENT to call out troops in consequence of the Western insurrection, and that making provision for the effectual protection of the frontiers of the United States. Mr. R. then mentioned his expectation of despatches being received from our Ministers in Paris in the course of twelve hours (a particular mention of which has already been made) which might convince all of the propriety of going into this measure; for he believed it was the wish of all to defend the country with vigor and effect, and that they only differed as to the means of doing it.

Mr. McDOWELL was in favor of the motion for rejecting the bill, as it contained two principles which he thought inadmissible; the first, because it delegated Legislative power to the PRESIDENT; the other, as it respects volunteer corps. The first, he believed, would be unconstitutional, and the last would go to the destruction of the militia of the United States. If our situation be such as



it had been figured to the committee by the gentleman from South Carolina, they ought to turn their attention to it, and create an army themselves, and not direct the PRESIDENT to do it if he shall judge proper. But if there be no real appearance of danger, but it is merely conjectural, then it is not necessary to act. Gentlemen have talked of members folding their arms and doing nothing for the defence of the United States. It must be recollected that we have gone considerable lengths in measures of defence. We have voted large sums for the frigates, for fortifications, for an additional regiment of artillery, and put in requisition 80,000 militia. If gentlemen can show that these measures, with our former establishment, are not sufficient for our present situation, he was ready to go further, but he was not willing to delegate any power lodged with that House to another branch of the Government.

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It was well known, Mr. McD. said, that it had been the wish of the late PRESIDENT, that it was also the wish of the present PRESIDENT, of the Heads of Departments, and many members of Congress, to increase our Military Establishment, and to fix a standing army in this country. It has heretofore, however, been opposed with success, except in time of war. If we were to be involved in war, an army must be resorted to in aid of the militia; but, in the first instance, the militia might be depended upon as a sure and safe defence of this country. He was sure they would be equal to any invasion, and if we were to engage in a lengthy and formidable war, we must provide accordingly.

Mr. S. SMITH hoped this motion would be withdrawn. At a time like the present, when the people of the United States are looking up to Congress in expectation of their taking effectual measures of defence against what they think not only a possible, but probable event, he wished nothing to appear like indifference to that object. He agreed with the gentleman from South Carolina (Mr. HARPER) that if gentlemen did not like the bill, it might be amended; but to reject it altogether would have too much the appearance of indifference to the defence of the country. He did not know that this would be the best and most effectual mode of defence; he thought a better might be established, but he had not made up his mind upon it. He would, however, throw out an idea or two for the consideration of the committee. Last session, eighty thousand men were ordered to be held in requisition. He thought if the PRESIDENT was to draw out twenty thousand of these for three months, and when their time expired, to draw out twenty thousand more, and so on, till the whole had been out, it might afford a sufficient protection, and more speedily than any other, and it would have the good effect of making eighty thousand soldiers. In addition to this, there might be a provision authorizing the PRESIDENT to receive volunteer corps of cavalry from the Southern States, to be commanded by their own officers, to serve in a manner as shall be directed by law, the equipments for which to be furnished by the United States, which would be more effectual than a general law to raise three or four thousand cavalry.

Mr. MACON said, that some of the arguments used on this occasion were of an extraordinary nature. The motion was first said to be contrary to rule, and then unprecedented. It must certainly be allowed to be as proper to debate a bill on its first reading, as to refuse to refer a resolution. The fact was, that motions of this kind were made every session. It was said to be a surprise upon gentlemen; this could not be the case, if they had done their duty, as it had lain on their desks for some time. One reason, with him, for wishing the bill to be rejected in this stage was, that he was desirous of bringing the session to a close. It was wonderful that gentlemen should persist in bringing standing troops into the Southern States against their will. If members from that quarter were of opinion that their militia was sufficient defence, why will gentlemen be so over civil as to force troops upon them? It was a little extraordinary that gentlemen most in favor of this bill are the most opposed to the plan for newly organizing the militia. [Mr. DANA doubted the fact.] It was said that, because gentlemen are opposed to this bill, they are opposed to all measures of defence. The fact was otherwise; they wished only to avoid unnecessary expense. If they were to bring forward a proposition for raising one hundred thousand or two hundred thousand men, and it was opposed, they might say the same thing. He supposed every man wished to defend his country. He had only heard one reason in favor of committing the bill, and that was, that it was probable we might shortly hear from our Commissioners. If there was any certainty in that, it might be ground for delaying a decision.

Mr. GALLATIN could not conceive why it should be insinuated that there was any thing unfair in making opposition to this bill on its first reading; for, if gentlemen were not ready to vote against the bill, they would, of course, vote for committing it, so that the opposition would have less chance of succeeding now than in the future stages of the bill. In the meanwhile, he wished to take every opportunity of endeavoring to destroy the bill. If a majority could be got against it on the first reading, so much the better, as it would prevent a loss of time in future discussion. He was not, however, afraid of discussion; he believed, the more it was discussed, the more the committee would be convinced of the impropriety of passing this bill. He did not believe, as had been supposed, that it was capable of amendment in any of its essential parts. It had been said, that a contingency might be mentioned; or a time fixed, at the expiration of which, the army might be raised. Such a bill would, however, be altogether different, as this bill vested the power of judging of the proper time with the PRESIDENT; nor could he see how it was susceptible of the amendments suggested by the gentleman from Maryland. If he thought it was, he would certainly agree to its being committed, as he perfectly concurred in the plan he mentioned; but such a system would be so different from the present, that it would be a much shorter and better course to reject this bill, and originate a new one.

He thought a bill of this kind was sufficient to alarm the House, and that it ought to be opposed in every stage, notwithstanding what was said about the danger of the country; indeed that danger was what strengthened his opposition to the bill; for, if our danger be, as it is represented, likely

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to come from Victor Hugues and his troops, from an insurrection of the negroes, from disaffected persons, from our enemy being at the door, it is the duty of Congress to raise an army themselves, and not to give the PRESIDENT the power of doing it; but if it is not believed that this representation of danger rests upon any specific ground, but that it is merely imaginary, then there is no necessity for giving the PRESIDENT the power, as he can call Congress together whenever he thinks proper.

If the danger of invasion was great, he should not hesitate to raise an army, without waiting until the event took place. He thought, therefore, the gentleman from South Carolina was not right to say that the opposition to this bill arose from a determined opposition to every thing like defensive measures. Mr. G. said it was true he did not apprehend all the dangers which that gentleman had spoken of; but, if they really did exist, he had a much greater reliance upon the militia of the country for defence than that gentleman seemed to have. He knew that though in some States they were not either well disciplined or well armed, yet they were organized, and had their officers, and the States being in possession of arms, they would be a much more effectual defence, and sooner brought together than any other force. He did not believe that giving the President the power to raise 20,000 men would be so effectual as the calling out of 20,000 militia, as the one could be raised immediately, and the raising of the other would be doubtful. Besides, in proportion as the danger exists, it would be better to call upon the people themselves to defend their country, than upon hired troops. If any danger was to be apprehended from the negroes, they would be best suppressed by the people in the States where they are. A militia is every where; whereas a standing army may be very distant from any attack which may take place. A standing army in Virginia, for instance, would do little good against insurgents in South Carolina; and if an insurrection of that kind was not immediately suppressed by the people, the mischief would be incalculable.

Mr. RUTLEDGE thought it necessary, as the gentleman from Virginia had withdrawn his opposition to the commitment of the bill from what had fallen from him with respect to the probability of despatches being shortly received from our Ministers, to state upon what ground he had said this. [Mr. R. then mentioned the arrival of the *Pomona* at Baltimore.]

Mr. McDOWELL did not think the information given by the gentleman from South Carolina (Mr. RUTLEDGE) ought to put off the decision of the question which had been under consideration.

### **WEDNESDAY, April 25.**

#### ***Provisional Army.***

The SPEAKER having declared the question on the bill from the Senate for the raising of a provisional army, viz: "Shall this bill be rejected?" to be first in order before the House,

Mr. McDOWELL said, upon further consideration, and conceiving that gentlemen might wish to see the contents of the despatches of our Ministers, which had been mentioned, before they gave their vote on this occasion, he should withdraw his opposition to the second reading of the bill.

The bill was then read a second time; and a motion being made to commit it to the Committee of the Whole on the state of the Union,

Mr. LYON called for the yeas and nays; but only himself and another member rising in support of the motion, it was not carried.

The bill was then referred.

#### ***Department of the Navy.***

Mr. HARPER called for the order of the day on the bill for establishing an Executive department, to be denominated *The Department of the Navy*. The House accordingly went into a Committee of the Whole on this bill, and rose without making any amendment in the bill; but, upon the question, in the House, of its passing to a third reading,

Mr. GALLATIN said, he had not proposed any amendment to this bill in the Committee of the Whole, because, what he had to say upon it, would go against the principle of the bill. He did not think it necessary to establish a Navy Department. He did not suppose our Army and Navy were at present so large as to require two separate departments. If the business was so much increased as that the persons at present employed could not do it, they might be increased. Nor did he believe, with some gentlemen, that such an institution would produce economy; on the contrary, he always found that the increase of officers was the increase of expense. Some time ago, it was said that great economy would arise from appointing a Purveyor of Supplies; but he had seen, from the time of this establishment, a great and constant increase of expense, in every thing which relates to supplies. Not seeing the necessity of it, therefore, he should vote against it, except good reason should be given for it; for he believed, the moment a department of this kind was established, the head of it would wish to make it of as great importance as possible, by endeavors to extend the object of his superintendence. He called for the yeas and nays upon the question, which were agreed to be taken.

Mr. J. WILLIAMS did not feel disposed to vote for this bill. It appeared to him that the Secretary of War, with officers under him, would be sufficient for the management of our naval concerns also. It was some time after the constitution was framed before the War Department was established. Whenever an office was established, something was always found for it to do. Soon after the War

Department was established we had an Indian war; and after that Indian war ceased, another establishment was made under the name of the Accountant's Office. If the business was increased, new clerks might be employed, but he should be against any new department. If we were engaged in hostilities, and our naval power of course increased, such an establishment might be necessary; but at present he did not think it necessary, nor did he think our revenue equal to the support of a Navy which should require such an establishment to take care of it. If this office was to superintend the construction of vessels, persons acquainted with this business might be employed under the Secretary of War. The present expense of the War Department was \$18,250 a year; and though there would not be much to do in this new office, he supposed the expense would not be much less; and, besides, Congress would be importuned, from session to session, to increase our naval force. Mr. W. said he was desirous of making every defence for our country, yet he wished to keep down our expenses as much as possible. If circumstances called for going further into the business of the Navy, he should not object to it.

Mr. SEWALL said, when the House was considering any subject relative to the increase of the Navy, complaints were made of the enormous expenses and of the little responsibility which attends the business; and when it has been said that the greatness of the expense might have arisen from a want of knowledge in the persons who had the care of the business, it was said that defect ought to be remedied. This department is intended to do that, and, by the expense of a few hundred dollars, he had no doubt thousands would be saved. When talking about vessels, it was complained that too great an expense was incurred on this object; now it is said there is no object for the proposed officer to attend to. But the gentleman from New York (Mr. WILLIAMS) was afraid, if this office was established, it would be the means of increasing the Navy. This certainly could not be done, contrary to the will of Congress.

He thought there were obvious reasons for the establishment of this department. It was well known that an officer might be well acquainted with the business of the army, without knowing any thing about a navy; and a man employed at the head of such a department ought to have some knowledge of the business committed to his care. Mr. S. said, however well the present Secretary of War might be acquainted with army concerns, he believed he was not conversant with naval matters. In consequence of this, he had a number of agents employed under him. Indeed, the War Department had so much business on its hands, as not to be able to pay a sufficient attention to our naval establishment. He therefore believed it was necessary to make this new establishment, especially as the Navy Department was likely to be considerably augmented.

Mr. S. SMITH believed, after all the struggles which had been made on this subject, it would at length be found necessary for the United States seriously to turn their attention to the establishment of an efficient naval force; and the sooner gentlemen could bring their minds to this, the better it would be for the general good. If this proposition had been brought forward at the commencement of the session, he should have thought it unnecessary; but, from the increase which had been made during this session, he thought the establishment proper. \$950,000 had been appropriated for providing twelve vessels; a number of galleys were also contemplated. A ship of war or schooner, it appears, has been built on the lakes, and some galleys on the rivers. These, with the frigates and cutters, form an establishment which will require a naval man to superintend it. An expenditure of two millions of dollars, he supposed, would be authorized this session; and a man knowing something of naval architecture will be able to save more, in the course of this year, to the United States, than will pay ten years of the expenses of this office. A merchant going into the building of vessels without a knowledge of the business will find the truth of this fact. The great expenditure attending the building of the frigates, he supposed had been chiefly owing to the want of such an establishment as the present. The gentleman from New York had stated the expense of the War Department at \$18,250; but one-half of that expense was incurred in the office of the Accountant of the War Department; and as there would be no need of a new Accountant, the expense could not be doubled. The duties of the War Department are greatly increased, and might be further increased during the present session; and an expenditure of the kind proposed might save the throwing away of thousands of dollars.

Mr. MACON said, the arguments in favor of this bill were derived from a want of knowledge of naval affairs in the War Department. He thought that might be supplied without the establishment of a new department; but he believed the building of the frigates had mostly been carried on under the direction of the captains who were to have the command of them. More clerks had been added to the War Department, in consideration of the business which the Navy had occasioned. He believed the more officers were appointed, the more money would be expended.

Mr. OTIS said, the gentleman from New York had opposed this bill on different grounds from the gentleman from Pennsylvania. He did not make any reply to the gentleman from Pennsylvania, because he expected opposition from him and some others, to every measure which had the defence of the country for its object; and, as the session was drawing to a close, he thought it best to have as little debate as possible, and that the sooner the question was taken the better; but when he saw a gentleman rise in opposition to it, upon whose support he calculated, he was apprehensive lest it might have an effect upon other persons on whose support he also relied. The gentleman from New York seemed to apprehend some new and heavy expense was to be incurred, and that some greater caution was now necessary than heretofore. What saving, then, does he mean to make by opposing the establishment of this office? Since he supposes the same clerks will be sufficient, it will only be the salary of the chief officer, which, Mr. O. supposed, would be \$3,500—a greater saving than that which would be made by such a person in every ship

built or purchased. Taking the expense of our Naval Establishment at one million dollars a year, it would only be an expense of one-third per cent., which every one must allow was a mere trifle, to have the money of the public well expended. The services of the War and Navy Departments were, he said, perfectly distinct. The duties of the War Department became every day more arduous, and whatever gentlemen may think, they must become still more so. This opposition coming from a friend, he could not suppose it arose from a bad motive, but merely from a narrow conception of what is conceived to be the agricultural interest. Agriculture and commerce, said Mr. O., are twin sisters, and cannot live separate from each other; they must live together, or expire at the same moment. It was the duty of gentlemen representing agriculturists thus to speak to their constituents. It was an axiom realized by every politician in the world. The fact was, that every thing spent upon the Naval Department was so much saved, in which the agricultural part of the country partake very largely.

Mr. T. CLAIBORNE never remembered to have heard such language as had fallen from the gentleman last up. He laments, said Mr. C., that a gentleman who usually voted with him should dare to think for himself. Are gentlemen's opinions and language thus to be circumscribed? [Mr. O. explained.] Mr. C. continued, the gentleman was willing that all questions should now be taken without debate. Does this mean, said he, that there are a majority of members in this House who must always be in the right, and a minority always in the wrong? If this be the case, they had better dismiss the minority, and do the business themselves. Were not gentlemen any longer to express their difference of opinion? Would this be the way to keep the Government together, or to preserve harmony in the country? If this were to be the situation of things, he should regret it with tears in his eyes. He had himself no mathematical certainty that any opinion of his was right; nor did he think the gentleman from Massachusetts ought to expect men to bow to his. Such an assumption led to mischief of a serious kind. What! to say we have a majority, and therefore we will have no debate. [The SPEAKER said no such expression had been made use of; if it had, he should have checked it.] Had it not been for an expression of this kind, he should not have risen on this question. He wished to hear every man deliver his opinion freely. Mr. C. did not believe the bill to be a proper one, and he should therefore vote against it.

Mr. McDOWELL said, he should be opposed to the bill, if he had no other objection to it than that it went to countenance the idea, according to the gentlemen from Maryland and Massachusetts, that this country must go into the establishment of a large naval power. The great saving to be derived from this office, he understood to be from savings in the building of vessels; but, as the twelve vessels which were lately voted are proposed to be purchased, ready built, he supposed this reason did not apply at present. If there was no intention, therefore, (which he trusted there was not,) of carrying our Naval Establishment to any considerable extent, he could see no occasion for the creation of this office. For, if this Secretary of the Navy was appointed, he would also be obliged to rely upon others, in a great degree, for information.

Mr. HARPER said, the naval defence which this House thought necessary for the service of the country having been voted, he could not agree with those gentlemen who consider this as a question of defence. He thought it a question of economy, and, in this view, he should reply to some observations which had been made upon it.

He believed our naval defence would be much more efficaciously and speedily provided by means of the proposed establishment than if the bill was rejected. So far, indeed, it is a question of defence, but only collaterally so. The point of view in which this bill should be considered, is simply this: will it not effect with more speed and economy the marine defence now existing, as well as that contemplated? He himself had no doubt as to the fact. Indeed, he would ask the gentleman from North Carolina, whether, if he were about to erect a distillery on his place, he would employ his overseer to do it, who, though he might understand the business of his farm very well, knew nothing of building. He certainly would not; and if this would be bad policy in an individual, it would be equally so in a nation. Besides, the expense would be so trifling as only to amount (as had been stated) to one-third per cent., though traders were in the habit of paying five per cent. to have their business done.

But it was said, that if an office of this kind was established, it would soon create business. But the business is already created. We have, said he, already a marine of fifteen ships of war. This, he knew, was comparatively a small force, but in the establishment of which we shall yet expend two millions of dollars, and the support of which will amount at least to \$700,000 or \$800,000 annually. When the War Department was first established, the object of its care was not, he believed, of equal magnitude.

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Mr. R. WILLIAMS was ready to acknowledge he did not believe it could ever be the interest of this country to go into the establishment of a large naval power, and therefore he should not be in favor of the present bill on that ground. Nor did he think there was any good reason for dividing the military and naval business, except there was more than could be attended to by the present establishment. But it was said the business was of a different nature, and therefore it ought to be in separate departments, as one man cannot be supposed to understand both concerns. That objection would apply to any of the other departments; and whenever this rule of dividing business shall be adopted, we shall get men of inferior talents to do it. When the Government was established, it was thought that a War Department would be equal to the military and naval concerns of this country. But it was said a navy was not then thought of; it was, however, doubtless thought of when the frigates were ordered to be built, and it was not then gone into. It was, however, said that much money had been lost for want of an officer of this kind. This was mere assertion, and it was by no means clear that the business would be done better with such an officer than without him.

But it was said, it was necessary to go into this measure for the sake of appearances. To whom are these appearances to be made? Not to our own people, but to European nations. The gentleman from Massachusetts says we ought to adopt their opinion upon this subject. He viewed a policy of this kind the most fatal of any other to this country. He believed that the less we had to do with European politics, and their mode of administration, the better. The only object in view, with that House, ought to be the interest of their own country. What, said he, is the situation of those countries which have gone into the establishment of large navies? They are involved in debt which they never can, and never will, pay.

Mr. J. WILLIAMS said, the only point in dispute was, whether a separate office should be established for the business of the Navy, or whether it should be put under the care of a superintendent in the War Department. He wished the gentleman from Massachusetts (Mr. OTIS) had spared his observations until he had heard those of the gentleman from Maryland, (Mr. S. SMITH.) It had appeared to him that a superintendent in the War Department would have been sufficient, and he yet thought so. He did not think the business of the Navy was so great as to require a separate establishment. There was more business in the War Department in 1794 than at present, and nothing was then heard of a new department. He should not have opposed this measure if he had not been convinced that every measure taken to increase the Navy beyond its present establishment would have a bad effect on this country. It had been proposed last winter to purchase all the live-oak timber in the Southern States; afterwards a proposition was brought forward for the establishment of navy yards. Those measures had been defeated, and they were now called upon to establish a new department for this favorite object. He was not willing to do it. The gentleman from Massachusetts said there would only be a difference between making a new office, and continuing to do the business in the War Department, of the salary of the chief officer; but if he looked at the second clause of the bill, he would find himself mistaken, as there was in that provision for a principal clerk, and such other clerks as he shall judge necessary: so that he may have a clerk for every port in the Union, if he pleases. If he represented, as the gentleman from Massachusetts does, a commercial interest, he might be as favorable to a Navy as him; but as that was not the case, he was opposed to it. He gave his approbation to such appropriations as he thought necessary; and if, in this instance, he differed in opinion from the gentleman from Massachusetts, he should stand excused. He believed with that gentleman, that the commercial and agricultural interests were closely connected; they differed only as to the extent to which it was proper to carry our naval defence. He did not wish, however, at present, to reject the bill. He believed it might be amended, and he had no objection to the question being postponed for that purpose.

Mr. LIVINGSTON said, he was almost tempted to smile at the arrogant pretensions of some gentlemen in this House, in their treatment of others, at least their equals on this floor, whatever they might be out of doors, being equally with them Representatives of the people. They were told by the gentleman from Massachusetts (Mr. OTIS) that opposition was expected, was looked for, from certain gentlemen; that no argument was necessary on the occasion, because those members who were opposed to all measures of defence, would oppose this measure also; but that those who had originated the measure would carry it into effect. This simple declaration of a strength of party was also attended with a very handsome rebuke of one of his colleagues (Mr. J. WILLIAMS) for having dared to doubt the propriety of the measure before the committee. He was happy to find this rebuke had produced its effect, and that though his colleague was at first very decidedly against the bill, he was now disposed to doubt; and the effect of another rebuke, he supposed, would obtain his vote in favor of the new establishment. For his own part, neither the rebuke, nor the preliminary observations with which it was accompanied, had produced any effect upon him. He did very much doubt the propriety of the measure; for, although there was a great deal of business in the War Office, and the same person could not be supposed to be acquainted with military and naval affairs, if a ship-builder was to have the appointment, he could not think such a person fit to be one of the great council of the nation; and it must be recollected that the person who holds this office will become one of the counsellors of the President on all great concerns.

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It was said that this establishment was necessary, in order to give an appearance of defence to Europe, as if the establishment of a Department of the Navy was to have the effect to do away all our past and to prevent future injuries. But our appearance to Europe was not all; the example of European countries was mentioned. All were said to have a Marine Department. The practice of Europe, Mr. L. said, had proved itself to be a bad one, as the navies of those countries had proved the ruin of them.

The yeas and nays were taken upon this bill going to its third reading, and decided in the affirmative—yeas 47, nays 41, as follows:

YEAS.—John Allen, Bailey Bartlett, James A. Bayard, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Thompson J. Skinner, Nathaniel Smith, Samuel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findlay, John Fowler, Albert Gallatin, James Gillespie, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Robert Williams.<sup>[31]</sup>

### **THURSDAY, April 26.**

The bill for establishing an Executive Department, to be denominated the Department of the Navy, was read the third time and passed—42 to 27.

#### ***Military Appropriations.***

On motion, the House again resolved itself into a Committee of the Whole on the bill appropriating for the Military Establishment for the year 1798; when, the question for filling the blank in the Quartermaster's Department with \$200,000 again recurring,

Mr. GALLATIN moved to fill the blank with \$150,000, which was the sum he had proposed on a former day, since which, he said, the House had received a number of statements from the Secretary of War, in order to induce a larger appropriation. As there seemed to be a general concurrence of opinion to restrict the expenses of the War Department, he wished some gentlemen, better able to do it than himself, would compare the number of troops in service with the sums there required. Mr. G. noticed a number of items which appeared to him unaccountably extravagant, and contrasted the very great expense incurred on the North-western frontier with that of the troops employed on the seaboard. Mr. G. also took a view of the expenses under this head from the year 1789 to the present time, in order to show that \$150,000 would be a sufficient appropriation.

After commenting pretty freely and at large on the estimates from the War Office, Mr. G. said, he believed there was some radical defect with respect to the connection subsisting between the Accountant's department, the Treasury and War Departments, which prevented a proper investigation of accounts. So far as relates to the Treasury Department, the accounts were always very clear, and there was no ground of complaint; but, from the connection which subsists between the War Department and the Accountant's department, there seemed to be a want of responsibility.

In the details which had been laid before the House, Mr. G. said, he found items under the head of contingencies, which he should never have expected to have found there; one was for the pay of an inspector of the troops and garrisons of the United States, at a salary of sixty dollars a month. He could not say such an officer was not necessary; but if he was, he would say he ought to have been provided for by law. The other item was for a much larger sum, viz: the pay of an engineer of the fortifications of the United States, at a salary of three thousand dollars a year, which was a salary greater than that of the Secretary of War. It appears that this engineer was engaged for three years; but, after he had been some time in the service, two thousand dollars were given him over and above his pay, to relinquish his contract.

After a few observations from Mr. DANA, in favor of the Secretary of War,

Mr. SHEPARD rose, and went over the different items contained in the statement read yesterday, particularly the boatmen, \$13,000; the pack-horsemen, \$5,000; the wagoners, \$7,000; the laborers, \$3,000; the armorers, \$6,000; the artificers, \$14,000; hire of expresses, \$6,000; and fuel, \$8,000. He could not tell how so many boatmen, pack-horsemen, and wagoners, could be employed (for it was not for boats, pack-horses, and wagons, but for the men alone;) and what so many laborers could be employed in he could not imagine. He did not see why the soldiers could not do all the labor the Army had to do themselves. When he was in the Army, he was at no expense like this. And how the repairing the arms for three thousand men could cost \$6,000 he could not tell; nor could he see how \$14,000 could be expended on artificers. If we were to be involved in war, it would not do to expend money in this manner. It was easy to write down thirty, fifty, or one hundred thousand dollars for this or that, but when the taxes came to be laid, the money would not be so easily raised. Mr. S. passed over a number of articles, till he came to fuel. He thought \$8,000 a year for fuel, in a country where the trees were ready to fall upon them, was a very exorbitant charge. While he was in the Army, it never cost him sixpence for fuel. The United States had better purchase the land upon which the timber grows, at once; they would be able to get it for a much less sum. If these expenses were to be incurred for five thousand men, what would be the expense of an Army of thirty thousand men? This estimate, he was sure, must be much too large; and it became Congress to be careful how they gave encouragement to such charges as these, for the country would scarcely be able to support the expense of any considerable establishment if more economy was not used.

The question on filling the blank with two hundred thousand dollars, was put, and negatived without a division.

Mr. GALLATIN moved to fill the blank with \$150,000. He said that, with respect to the integrity of

the Secretary of War, he did not doubt it in the least; as to his talents he had no opportunity of forming a correct judgment of them; he was, however, some judge of accounts, and he saw enough of them to authorize the declaration which he had made as to the improper connection of the different departments. He had spoken of facts only.

The question for filling the blank with \$150,000 was put, and carried without a division.

After agreeing to several other items, amongst which was one for the vessels on the Lakes, the committee rose, the House agreed to the amendment, and the bill was ordered to be engrossed for a third reading.

### ***Presents to Ministers.***

The SPEAKER said he had received a letter this morning, signed Thomas Pinckney, which he was desired to lay before the House. It was accordingly read. It stated that when he (Mr. Pinckney) had concluded the late treaty with the Spanish Government, the Spanish Minister, the Prince of Peace, informed him the presents usually given in such cases would be prepared for him; and that also when he took leave of the British Court, the like information was given to him by the Minister there. To both of which he replied, that the Constitution of the United States forbade its Ministers from receiving any present from any foreign Prince or State, without the consent of Congress; that in due time he would ask that consent, and act accordingly. This letter asks for the determination of Congress.

It was moved by Mr. RUTLEDGE to refer this letter to a select committee.

Mr. MACON wished it to go to a Committee of the whole House.

After some observations, the latter motion was negatived, and the former carried.

### **FRIDAY, April 27.**

On motion of Mr. W. C. CLAIBORNE, the House went into a Committee of the Whole on the bill directing the payment of a detachment of militia, for services performed in the year 1794, under the command of Major James Orr. The bill was reported without amendment, and ordered to be engrossed for a third reading to-morrow.

### **WEDNESDAY, May 2.**

#### ***Naturalization Law.***

On motion of Mr. SEWALL, the House went into a Committee of the Whole on the report made yesterday by the Committee for the Protection of Commerce and the Defence of the Country, on the subject of naturalization; and the report having been read, and the first resolution for prolonging the term of residence before aliens shall be admitted as citizens, being under consideration,

Mr. SEWALL said, the term of residence now required from foreigners before they can become citizens, is five years. The committee think this period too short; it is much shorter than the period adopted by the French Government. The committee were of opinion that a residence of at least ten years should be required; but this might be left a blank in the bill, and afterwards filled.

Mr. HARPER believed that it was high time we should recover from the mistake which this country fell into when it first began to form its constitutions, of admitting foreigners to citizenship. This mistake, he believed, had been productive of very great evils to this country, and, unless corrected, he was apprehensive those evils would greatly increase. He believed the time was now come when it would be proper to declare, that nothing but birth should entitle a man to citizenship in this country. He thought this was the proper season for making the declaration. He believed the United States had experience enough to cure them of the folly of believing that the strength and happiness of the country would be promoted by admitting to the rights of citizenship all the congregations of people who resort to these shores from every part of the world. Under these impressions, which, as he supposed they would have the same force upon others as upon himself, he should not detain the committee by dilating upon, he proposed to amend the resolution by adding to it the following words, viz: "that provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States, except by birth."

The CHAIRMAN declared this amendment would be a substitute to the resolution before the committee, and therefore not in order.

Mr. OTIS said, he would propose an amendment, which he believed would be in order, which was as follows, namely, "and that no alien born, who is not at present a citizen of the United States, shall hereafter be capable of holding any office of honor, trust, or profit, under the United States."

Mr. HARPER moved to amend this amendment, by adding the following words: "or of voting at the election of any member of the Legislature of the United States, or of any State."

Mr. H. said, he was for giving foreigners every facility for acquiring property, of holding this property, of raising their families, and of transferring their property to their families. He was willing they should form citizens for us; but as to the rights of citizenship, he was not willing they

should be enjoyed, except by persons born in this country. He did not think this even was desirable by the persons themselves. Why, he asked, did foreigners seek a residence in this country? He supposed it was either to better their condition, or to live under a Government better and more free than that they had left. But was it necessary these persons should at once become entitled to take a part in the concerns of our Government? He believed it by no means necessary, either to their happiness or prosperity, and he was sure it would not tend to the happiness of this country. If the native citizens are not indeed adequate to the performance of the duties of Government, it might be expedient to invite legislators or voters from other countries to do that business for which they themselves are not qualified. But if the people of the country, who owe their birth to it, are adequate to all the duties of Government, he could not see for what reason strangers should be admitted; strangers who, however acceptable they may be in other respects, could not have the same views and attachments with native citizens. Under this view of the subject, he was convinced it was an essential policy, which lay at the bottom of civil society, that none but persons born in the country should be permitted to take a part in the Government. There might have been, Mr. H. acknowledged, individual exceptions, and there may be again, to this general rule; but it was necessary to make regulations general, and he believed the danger arising from admitting foreigners generally to citizenship would be greater than the inconveniences arising from debarring from citizenship the most deserving foreigners. He believed it would have been well for this country if the principle contained in this amendment had been adopted sooner; he hoped it would now be adopted.

Mr. S. SMITH believed it would be best first to decide upon the resolution as reported; if it was negatived, the gentleman from South Carolina might then introduce his amendment as a substitute. To adopt the resolution as reported would be, he believed, to agree upon an *ex post facto* regulation. It could not be intended, he should suppose, to prevent persons who had resided in this country two or three years, under the expectation of becoming citizens at the end of five years, from that privilege.

Mr. CHAMPLIN suggested whether, if this amendment was adopted, it would not prevent foreigners, who are not at present citizens of the United States, from becoming officers in the Military or Naval Departments of the United States. If so, he believed it would be proper to insert the word "civil" before "officers."

Mr. OTIS acknowledged that the objections of the gentleman from Maryland (Mr. S. SMITH) were, in some degree, well founded; but there might be regulations introduced into the bill to avoid them. The present law, he believed, directs that persons shall give notice of their intention of becoming citizens of the United States. Where this notice had been given, he thought such persons should be excluded from the operation of the law. These resolutions having only been laid upon the table this morning, he wished, however, that the committee might rise, in order to afford a little time for consideration. He wished to exclude all foreigners, whom he could constitutionally exclude, from holding offices in the United States; but not to entrap such as are in the way of becoming citizens.

Mr. HARPER said, that, having had it suggested to him that the constitution would not admit of restraining the States in their admission of citizens, he should withdraw his amendment for the present, until he had had an opportunity of examining the constitution in this respect.

The motion being put for the committee to rise, it was carried, and the committee rose accordingly.

### **THURSDAY, May 3.**

#### ***Naturalization Law.***

Mr. SEWALL moved the House to go into a Committee of the Whole on the state of the Union, in order to resume the consideration of the resolution which had been reported on the subject of aliens.

Mr. OTIS wished to propose a resolution to the House, before it resolved itself into a Committee of the Whole on the state of the Union, as a substitute for the first resolution, reported by the Committee for the Protection of Commerce and the Defence of the Country. It was to the following effect:

"*Resolved*, That no alien born, who is not at present a citizen of the United States, shall hereafter be capable of holding any office of honor, trust, or profit, under the United States."

Mr. VENABLE did not think the House were authorized to enact such a principle into a law. If taken up at all, it ought to be considered as a proposition for amending the constitution. If it was thought necessary by gentlemen to amend the constitution in this way, he should not object to going into the subject. After foreigners were admitted as citizens, Congress had not the power of declaring what should be their rights; the constitution has done this. Foreigners must, therefore, be refused the privilege of becoming citizens altogether, or admitted to all the rights of citizens.

Mr. OTIS had no idea that this proposition could be considered as a proposition to amend the constitution. If the House had the power to amend the naturalization law, and to extend the time of residence necessary to entitle an alien to citizenship, they could certainly extend it to the life of man. The idea of citizenship did not always include the power of holding offices. In Great Britain no alien was ever permitted to hold an office, he wished they might not be allowed to do it



here.

The SPEAKER said this was not the proper time to argue whether this proposition ought to be considered as an amendment to the constitution. The Committee of the Whole would report upon it as they thought proper.

Mr. VENABLE did not object to the resolution being referred, but thought it ought to go rather to an ordinary Committee of the Whole than to that on the state of the Union, as he did not believe Congress had the power of saying, men who were entitled to hold offices by the constitution, shall not hold them.

The motion for reference was put and carried, there being for it 45 votes.

The House then resolved itself into a Committee of the Whole on the state of the Union, Mr. DENT in the chair; when

Mr. OTIS moved to postpone the consideration of the resolution formerly under consideration, for extending the time of residence of aliens before they should be entitled to citizenship, in order to take up the resolution which he had proposed, and which had been referred to this committee.

The question was put and negatived—51 to 26.

The question then returned upon the motion made by Mr. OTIS yesterday, to amend the first resolution, by adding words of the same tenor with those contained in the resolution referred this morning.

Mr. MACON said, whether it would be good or bad policy to adopt a regulation of this kind, he would not inquire, because he believed the PRESIDENT and Senate could always appoint such men as they thought proper to office. If a man is a citizen, he is eligible to office agreeably to the constitutional rule, and that could not be altered by law. If the people chose to elect a foreigner as a member of the Legislature, if he had been a citizen seven years, Congress could not say he should not be eligible. They might, indeed, make the time of residence, to entitle a foreigner to citizenship, so long, as to prevent him in that way from holding a seat in the Legislature; but, after a man is a citizen, he must be entitled to the rights of a citizen.

Mr. OTIS said, gentlemen could certainly read the constitution for themselves, and draw their own conclusions from it. He himself had not the smallest doubt as to the constitutionality of restricting aliens in the way proposed. He believed that Congress, having the power to establish an uniform rule of naturalization, could, if they thought proper, make a residence of forty or fifty years necessary before an alien should be entitled to citizenship, which would extend to the whole life of a person, and prove an effectual exclusion. If Congress, then, had a right to exclude foreigners altogether from citizenship, any modification of that right was certainly within their power, and would be an advantage to aliens, for which they ought to be grateful. There would be nothing in this contrary to the constitution; for it was always acknowledged that where an absolute power may be exercised, a conditional power may also be exercised. What advantage, he asked, was derived to this country from giving aliens eligibility to office? The people of this country were certainly equal to the legislation and administration of their own Government, comprising all the aliens who are now become citizens. He had no doubt but many aliens would become very valuable acquisitions to this country; but he had no idea of admitting them into the Government. He did not wish to open the door to the intrigues of other countries in this way; since we know there are countries whose chief attention is paid to the obtaining of influence in the internal concerns of the countries over which they wish to have dominion. And he could see it possible that persons might be furnished by such a country to come here and buy lands, and by that means, in time, get into the Government. Great Britain, he said, was very careful of the avenues which led to her liberty in this respect. Aliens were there excluded from holding all places of honor, profit, or trust. The situation of America heretofore was different from what it is at present. It had not only been thought good policy, in times past, to encourage foreigners to come to this country, but also to admit them into the Legislature, and important offices. But now, said he, America is growing into a nation of importance, and it would be an object with foreign nations to gain an influence in our councils; and, before any such attempt was made, it was proper to make provision against it; for if the time ever should arrive when a number of persons of this description had found their way into the Legislature, a motion of this kind would of course be very odious. If, however, gentlemen were of a different opinion and think the object would be better accomplished by extending the residence of aliens, he should not object to that course being taken, though he thought the one he proposed perfectly within the power of the House.

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Mr. SITGREAVES wished that, in attaining an object in which all seemed to concur, they might avoid any constitutional embarrassment; and this it was allowed might be done by extending the time of residence of aliens so far, as to prevent them from ever becoming citizens, by which means persons who could not be considered as having a common interest with the citizens of the country, would be effectually excluded from holding offices in the Government.

Mr. OTIS withdrew his amendment; and then all the three resolutions were agreed to, without a dissenting voice.

The committee rose, and reported the resolutions. The two first were concurred in; but, on the question being put on the third,

Mr. N. SMITH said, a foreign Government might do an act tantamount to war, without declaring it, yet according to the wording of the proposition, the citizens of that country could not be removed. He therefore moved to amend the proposition by adding the words, "being native citizens of any country the Government whereof shall be at war with the United States."

Mr. SEWALL said, the only objection that he had to this amendment arose from the consideration that Congress alone had the power of deciding on the question of war, and he could not therefore see how it could be determined that any nation was at war with us, until the declaration was made by that nation, or by Congress.

Mr. OTIS wished his friend from Connecticut would admit of an amendment which he held in his hand, in the place of that which he had offered. It was in the following words: "or shall authorize hostilities against the United States."

Mr. N. SMITH had no objection.

Mr. McDOWELL thought this motion more objectionable than that of the gentleman from Connecticut. It ought to be remembered, Mr. McD. said, that inducements had been held out to foreigners to come to this country, and many of them had come with a view of becoming citizens of this country, and many, he believed, were as good as any amongst us. Out of respect to these foreigners, he should not wish to place them in the situation which this amendment went to place them in; because it might be said, hostilities were authorized when no war was declared, and these people might be treated as if the nation from which they came was at war with us, when no war existed. It had been said our population was now sufficient, and that the privileges heretofore allowed to foreigners might now be withdrawn. In some parts of the country, this might, in some degree, be the case; but he knew there were other parts which wanted population. From this consideration, and as he did not wish unnecessarily to distress the minds of foreigners who had taken up their residence amongst us, he should vote against this amendment.

Mr. J. WILLIAMS was persuaded, that, if this proposition passed, no good citizen need be afraid of being disturbed. He had no objection to this resolution without the amendment, nor had he any particular objection to the amendment.

Mr. RUTLEDGE was so far from believing that this amendment would check the immigration of foreigners, that he believed it would encourage it. Foreigners came here to live under a good Government, and the more secure the Government was made, the greater would be their desire to live under it; and he believed a greater security could not be given to it, than was proposed to be given by this amendment. It was wished to vest a power in the President to send out of the country persons who were natives of a country with whom we are at war, or who may have authorized hostilities against us. In fact, in the situation of things in which we are now placed, the PRESIDENT should have the power of removing such intriguing agents and spies as are now spread all over the country. What, said Mr. R., would be the conduct of France, if in our situation? In twenty-four hours every man of this description would either be sent out of the country or put in jail, and such conduct was wise. Was there nothing, Mr. R. asked, to admonish us to take a measure of this kind? Yes, there was. A gentleman from Kentucky (Mr. DAVIS) had said, that a person was in that State delivering commissions into the hands of every man who was so abandoned as to receive them. Other means were also taken to alienate the affection of our citizens; and are we still, said he, to say we will not send these persons out of the country until a declaration of war is made? If these persons are suffered to remain, France will never declare war, as she will consider the residence of these men amongst us as of greater consequence than the lining of our seaboard with privateers, or covering our coasts with men.

Mr. VENABLE did not wish to show any particular encouragement to foreigners; but, if persons thought they could live happier here than in their own country, he should not object to their making the change. He could not agree to the amendment. Suppose hostility was committed upon the property of any of our citizens by France, such hostility might not be sufficient cause for placing all our commercial citizens in a situation of having their property seized. Many cases might be deemed hostility by the PRESIDENT which ought not to go to cut off all communication between the citizens of the two countries. In such a case, if any of the citizens of France should be taken up here, it would produce a similar conduct towards our citizens in that country, which would be allowed to be a serious evil.

Mr. SEWALL again urged, as an objection to this amendment, the constitutional power of Congress to declare war. Too many circumstances of insult and aggression, he allowed, had been experienced by this country from a foreign power, which might have been understood by other nations as war, and might have been so considered by this country; yet, as it is an act of Congress to declare war, we could not be considered as at war until Congress declared us to be in such a state, except war was declared against us. This provision was not intended for any particular case, but as a general provision, which might at any time be called forth by proclamation. It should, therefore, be as well guarded and definite as possible. If the words proposed were introduced, the proposition would be rendered too indefinite; and the PRESIDENT might proceed to send aliens from this country, and of course cause our citizens in a foreign country to be sent from thence, or to be imprisoned, and their property confiscated, at a time when Congress might not judge it expedient to go to war. France, said he, has now done towards the United States what might be considered as hostility. Suppose we pass a law which calls upon the PRESIDENT to act, what ought the PRESIDENT to do? Was he to determine the point whether France has authorized hostilities against the United States? If so, he would doubtless say she had, and in consequence every Frenchman in this country will be liable to be removed out of the country, and our citizens who happen to be in France will be placed in the same situation. Mr. S. said, though it might be proper for Congress to declare this to be the state of the country, he thought it would be improper to give the PRESIDENT this power. He wished the power of sending persons out of the country to be confined to such cases as were particularly dangerous, which were included in the resolution without this amendment. As to foreigners guilty of crimes against the United States, they ought to be apprehended and punished according to the existing laws: the present

regulation was not pointed at them.

Mr. OTIS said, as his colleague had chosen to call his amendment indefinite, he must excuse him when he said he considered the resolution without it, as trifling and ineffectual, and argued a timidity which ought not at this time to be shown by this country; and had he not been thoroughly acquainted with the uprightness of intention and the purity of the motives of his colleague, he should really have doubted whether he was sincerely desirous of exerting all the energies of the country in her defence; but, being persuaded of these, he would suppose that he himself was wrong in his conception on this occasion, and would make a few observations as to the ground upon which he formed his opinion.

He believed it would not be proper to wait until predatory incursions were made—until the enemy was landed in our country, or until what shall be considered as threatening or actual invasion appeared—before any steps were taken on the subject now under consideration. He was of opinion that when an enemy authorized hostilities, that was the time to take up that crowd of spies and inflammatory agents which overspread the country like the locusts of Egypt, and who were continually attacking our liberties. The provision would doubtless be exercised with discretion. There might be Frenchmen in this city and others (and he doubted not there were) who were peaceable, well-disposed persons, and against whom it never could be thought necessary to exercise this power; but there were other persons, not only in this city, but in others, who have not only been extremely instrumental in fomenting hostilities against this country, but also in alienating the affections of our own citizens; and it was men of this description whom he wished to remove from the country.

It is proposed by this resolution to give the PRESIDENT the power to remove aliens, when the country from which they come shall *threaten* an invasion. Some believe that this country is at present threatened with an invasion, and with a ravage of our coasts, yet others say that the despatches from our Envoys only consist of unauthorized conversations with X, Y, and Z, and therefore not to be relied upon. Mr. O. thought this a more indefinite power than that which he proposed to vest in the PRESIDENT. His opinion was, that something ought to be done which should strike these people with terror; he did not wish to give them an opportunity of executing any of their seditious and malignant purposes; he did not desire, in this season of danger, to *boggle* about slight forms, nor to pay respect to treaties already abrogated, but to seize these persons wherever they could be found carrying on their vile purposes. Without this, every thing else which had been done in the way of defence would amount to nothing.

Mr. McDOWELL said, from the observations of the gentleman who had just sat down, it would appear that hostilities had already commenced between this country and France. If this is the case, and the House knew it, why not say so, and make preparations accordingly? Why pass acts fitted for a state of war, without declaring that that is the state of the country? [Mr. OTIS said, if the gentleman from North Carolina would bring forward a proposition of this kind, he should be ready to vote for it.] Mr. McD. expected the gentleman was prepared for war, and, therefore, that he would have brought forward a resolution to that effect himself.

The gentleman from South Carolina (Mr. RUTLEDGE) had not considered this amendment with his usual accuracy, when he said that the adoption of it would prove an encouragement to foreigners to come to this country. He thought it could not be very flattering encouragement to foreigners, to tell them, "if you come here, and your Government commits any act of hostility against the citizens of this country, you will be liable to be imprisoned, or sent out of the country."

But it was said the country swarmed with spies and seditious persons. If this was the case, he should be glad if gentlemen would point them out; if they could, he should be as glad as they to take measures against them. A person in Kentucky had been alluded to. Under the authority of *Genet*, he believed some commissions had been issued; but he did not believe that any had been issued since. It was also known that there had been another Minister of another country who had adopted a similar practice. He still remained here, and might still be carrying on his mischievous schemes.<sup>[32]</sup> [The SPEAKER said the resolution was general.] It was said that hostilities having been committed on our commerce by France, they would authorize a war with France, (though Great Britain had conducted herself much in the same way, and nothing was said as to her,) and that therefore the PRESIDENT ought to be empowered to send all Frenchmen out of the country, however peaceably they might be residing here, if he thought proper to do so. This he could not consent to. It was too large a power. He should therefore vote against the amendment.

Mr. SITGREAVES considered this as one of the essential features of the system of defence about which Congress had been employed during the present session, in order to enable us to meet the dangers which threaten us. He believed, that though it might be extremely wise and prudent to enter into regulations for securing our peace at all future periods, yet it was most particularly their duty to concert measures of defence and protection in our present exigencies. He believed the business of defence would be very imperfectly done, if they confined their operations of defence to land and naval forces, and neglected to destroy the cankerworm which is corroding in the heart of the country. There could be no question on this subject. It is well understood by every member of the community. There is no occasion for specific proof that there are a great number of aliens in this country from that nation with whom we have at present alarming differences; that there are emissaries amongst us, who have not only fomented our differences with that country, but who have endeavored to create divisions amongst our own citizens. They are, said he, assiduously employed at this moment, and it is much to be lamented that there exists no authority to restrain the evil. It was therefore peculiarly incumbent on Congress to add to their other measures of defence, such powers as will protect the country against this evil. He

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believed this could not be effected without the adoption of some such principle as that under consideration. If the power was too limited, the enemy would not be met. There could be no difficulty, Mr. S. said, in point of right. All understood the rights to which aliens are entitled by the laws of nations. They are no more than the rights of hospitality, and this right varies according to the relation in which the country from which they come, and that in which they reside, is peaceable, or otherwise.

We do not owe to the citizens of France residents in this country (since France had been mentioned) the same hospitalities which we owe to those foreigners who are alien friends; though he confessed there were rights of hospitality which could not be done away in time of war, particularly as it respects alien merchants, which were provided for in this resolution. And except a person had an actual agency in designs which would endanger the peace of the country, though he was ordered out of the country, a free passage would be given to himself and effects; and if actually engaged in designs against the country, there would be a strong necessity for restraining the liberty of any such persons.

It had been well asked, whether we ought to wait till the enemy landed, before any measures were taken to remove persons from the country, who would be ready to join them by thousands, or take advantage of knowledge we have of their hostile intentions towards us? He thought there could be no doubt on the subject. He knew there were aliens in this country, of valuable characters, whose acquaintance ought to be cherished and cultivated. Such men would be in no danger from the proposed provision. It was meant only to operate against factious and bad men, who abuse the liberty allowed to them of residing in this country, and these all must see the necessity of attending to. France, said he, will not admit an alien of any description to reside in her country without a card of hospitality, and shall Congress scruple to go the length of this amendment? He hoped not.

Mr. ALLEN said, he would move an amendment which would supersede that under consideration, by making the resolution extend to *all aliens* in this country. He wished to retain none of the restraints which are in the present resolution. Nothing but his respect for the gentleman who made this report (Mr. SEWALL) would have prevented him from suspecting that there existed some latent and mischievous design in this business. The proposition goes upon the supposition that none but the citizens of a particular nation can be dangerous to this country; whereas he believed that there are citizens of several other countries who are as dangerous, who have dispositions equally hostile to this country with the French—he believed more so. He believed the whole country was aware of this. Mr. A. alluded to the vast number of naturalizations which lately took place in this city to support a particular party in a particular election. It did not appear to him necessary to have the exercise of this power depend upon any contingency, such as a threatening of invasion, or war, before it could be exercised. He wished the PRESIDENT to have it at all times. He moved an amendment to this effect, which went to enable the PRESIDENT to remove at any time the citizen of any foreign country whatever, not a citizen, regarding the treaties with such countries. If gentlemen took a view of the different States of Europe which had been subdued by the French, Mr. A. said, they would not think it either wise or prudent to wait for an invasion, or threatened invasion, before this power was put in execution. Venice, Switzerland and Rome, had been overcome by means of the agents of the French nation, at a time when they were in a much less alarming situation than we are at present; and the first disturbance in those countries was made the pretext of open hostility. This has been the effect of *diplomatic agency*; of emissaries within and without, who have bred quarrels, for the purpose of forming pretexts for measures which have led to the subjugation of those countries. He believed there were citizens in this country who would be ready to join a foreign power in assisting to subjugate their country. What passed before our eyes, and every day offended our ears, were so many proofs of it. Not many weeks ago open threats were made to disturb the peace of the country. He hoped, therefore, with all these things before them, the amendment which he had proposed would be agreed to.

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Mr. SEWALL said, being one of the committee who made this report, he supposed he fell in for a share of that censure which had been so liberally cast upon it by his colleague, and the gentleman last up from Connecticut. The gentleman from Connecticut had thought fit to condemn the committee for not having considered cases which were not referred to them. It was not referred to them to consider what France had done in all other countries with whom she had had disputes, or what this country should do against France; but what should be done with respect to aliens in this country generally. Civil policy regarded aliens in two lights, viz: alien friends and alien enemies. He did not contemplate the making of this country a wall against all aliens whatever; or that no alien should come here without being subject to an arbitrary authority, such as is known only to the French Directory. If the existence of such a power as shall be able to place every alien in the country in a dungeon, was necessary to quiet the fears and apprehensions of the gentleman from Connecticut, he should not be willing to grant it. Indeed, it appeared to him that the fears and apprehensions of that gentleman arose from some defect in his own organization, or disease of his body (which he believed might be better cured by the physician, than by any thing else) rather than from any real ground of alarm.

What, said Mr. S., is to be feared from the residence of aliens amongst us? Any thing to ruin the country? He acknowledged many inconveniences arose from this circumstance, but more from our own unnatural children, who, in the bosom of their parent, conspired her destruction. But did the gentleman wish to increase the evil, by saying that persons born in foreign countries, however regular and orderly their conduct may be, shall be liable to be imprisoned, or sent out of the country, but that citizens of this country, however reprehensible their conduct, should have nothing to fear? The committee were not called upon to report on this point. He was himself of

opinion that more ought to be done, and that aliens from any country should be liable to be removed, in case of misbehavior; but he did not wish to leave the business wholly with the PRESIDENT OF THE UNITED STATES. The committee had reported only in part; they had yet to consider what steps would be proper to be taken against aliens, or citizens, guilty of criminal proceedings; but when gentlemen saw the addresses which were pouring in from all parts of the country in favor of the measures which had been pursued by Government, and expressions of determination to support every measure in defence of their country, was any thing to be feared from a handful of aliens? It was a reproach to the country to suppose it. If aliens were found to be guilty of seditious practices, let them be restricted; but not placed under an arbitrary authority. He never wished to see the Government of this country in such a situation. Our situation, said Mr. S., is not like that of the Directory of France, whom all of the nation are cursing; we have, therefore, no necessity for the strong measures adopted by them. But if gentlemen were determined to arrest every alien in the country, let them bring forward a resolution of that kind; but, in making regulations against alien enemies, let us not subject every foreigner who comes to this country, however well intended he may be, to the fear of a dungeon or removal. If gentlemen wished to make the resolution more general, and to provide for cases, in which war was first declared by this country, though he had before said he did not think it necessary, he had no objection to indulge them, by inserting the words, "between which and the United States there shall exist a declared state of war." But unless the United States were inclined to assume the character of the Turks or Arabs, such a regulation as was recommended by the gentleman from Connecticut could not be adopted.

Mr. ALLEN had no particular anxiety that the resolution should pass to the extent which he had proposed. If gentlemen did not think it necessary, he should not persist in it. He was sorry the gentleman from Massachusetts should have discovered in him any disease of body which was capable of giving rise to personal fear. He believed he possessed as little as most men. As to the necessity of the measure which he had proposed, he would mention two circumstances which led him to think it necessary. A person in this city, who has too respectable a standing, and who is doing too much business in it, has declared that he wishes to see a French army land in this country, and that he would do all in his power to further their landing. He had heard nearly the same thing from another quarter. He thought, therefore, that there ought to exist a power which should be able to send such persons out of the country. Not that he was himself either afraid of being assassinated or having the city burnt. But the chairman of the committee had said, that this subject was yet before them. This he did not know, before the gentleman said so; for, having made a report upon the subject, he supposed that they had done all they intended to do upon it.

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Mr. DANA was opposed to this amendment. He thought the provisions of this resolution ought to be made definite, as it contemplated regulations which Congress would be willing to have in existence at all future times; and though the principle upon which the residence of aliens was regulated is laid down in the law of nations, as it relates to monarchical Governments, yet, in this country, where the sovereignty of the country is vested by the constitution in Congress, these regulations must be fixed by law. The danger of war with which the country was threatened had forced the subject upon Congress at this time, and this being the case, he was desirous of adopting some regulations of a permanent nature respecting it. If any other regulations were necessary with respect to our present situation with France, he thought they ought to be made special and temporary.

Mr. ALLEN withdrew his amendment; when

Mr. OTIS's proposition returned, the question on which was put and negatived—55 to 27.

Mr. SEWALL made the motion which he had suggested when he was last up, viz: to add the words, "between which and the United States shall exist a state of war."

Mr. OTIS hoped this motion would not prevail, as he thought it would deprive the resolution of every good feature which it at present possessed; for it would prevent the exercise of the power in any other case than in a state of war; and as all the expressions were future, it supposed that such a state did not exist at present. He confessed he set no value at all upon any law, unless it was adapted to the present exigencies of the country. Gentlemen might talk as they pleased about permanent regulations; he believed they ought to provide against the residence of alien enemies existing in the bosom of the country, as the root of all the evil which we are at present experiencing, and he could not conceive any mode of doing this, but by applying the remedy immediately to the evil. Gentlemen talk about a declaration of war. No such thing scarcely ever precedes war. War and the declaration of war come together, like thunder and lightning. Indeed, if France finds she can enfeeble our councils by refraining to declare war, and that we will take no measures of effectual defence until this is done, it is probable she will not declare it, but continue to annoy us as at present. He therefore thought, if the select committee had not been ripe for making a report fully on this subject, they ought to have delayed it until they were.

Mr. SEWALL explained.

Mr. SITGREAVES said, he had suffered no little from finding the difference of opinion which existed between the chairman of the committee who made the report on this subject, and gentlemen who usually voted with him. He saw that difference of opinion was essential and radical. He did not mean to go into the subject, but merely to make a proposition, and call the yeas and nays upon it. It was to add the words, "or shall declare hostility against the United States."

Mr. DAVIS moved a postponement of this question till to-morrow, as he wished time to consider of it. He had some doubts as to the constitutionality of such a provision.

Mr. SITGREAVES had no objection to a postponement, if time was wanted for consideration; but he could not see on what constitutional ground this motion could be objected to.

Mr. GALLATIN was in favor of the postponement. He would suggest to his colleague that part of the constitution which might be in the way of this motion. A distinction was made by it between actual hostility and war.

If it had only gone to have made a difference between declared and actual war, by striking out the word "declare," it would have removed the objection. If there be a difference between a state of war and of actual hostility, there is also a difference in the relation between alien subjects of a nation with whom we are at war, and those of a nation with whom we are in a state of actual hostility. If this distinction be correct, by turning to the 9th section of the constitution, it is found that the migration of such persons as any of the States shall think proper to admit, shall not be prohibited by Congress, prior to the year 1808. He understood it, however, to be a sound principle that alien enemies might be removed, although the emigration of persons be not prohibited by a principle which existed prior to the constitution, and coeval with the law of nations. The question was, therefore, whether the citizens or subjects of nations in actual hostility can be considered as alien enemies. The term "actual hostility," is vague in its nature, and would introduce doubt as to its true import. He should, therefore, be in favor of the postponement, except the mover would consent to have the word "declare" struck out in the way he had mentioned.

The question for a postponement was put and carried; and the two first resolutions were referred to a select committee, to report a bill or bills accordingly. [Pg 261]

## **FRIDAY, May 4.**

### ***Presents to Ministers.***

Mr. BAYARD called for the order of the day on the resolution from the Senate granting leave to Mr. Pinckney, our late Ambassador to Great Britain and Spain, to receive certain presents from those courts, on his taking leave. The House accordingly went into a Committee of the Whole on the subject, and the resolution having been read,

Mr. BAYARD moved that the committee concur.

Mr. McDOWELL said, this was a new subject, and, as it struck him, of importance. Notwithstanding he felt as much disposed as any member of the committee to do every thing respectful to our late Minister to London and Madrid, yet, when he looked upon the constitution, and reflected upon the intention of the clause which forbids the receiving of presents by our Ministers, and the consequences which must flow from a precedent of this kind, he could not easily bring himself to consent to it, unless some gentleman could show the propriety or necessity of it in a stronger light than he at present saw it. If we allow our Ministers to receive presents from foreign courts, on their taking leave, we must also calculate upon giving presents to all the foreign Ministers who come here, and these we have every reason to expect, will be constantly increasing. Besides, he objected to the principle of these presents. What are they given for? He supposed it was to gain their friendly offices and good wishes towards the country who gave them. He thought this improper; and he believed it would be well now to put a stop to the business, as a fairer opportunity could never occur of trying the principle, for if it ever could be allowed, in consideration of public services, it could not be better deserved than in the present case; but believing the principle to be a bad one, he should, therefore, be opposed to it.

Mr. BAYARD said, every constitutional objection must vanish on a single view of the article, because it allows that presents may be received, if the consent of Congress is obtained; and, so far from the constitution insinuating that it would be bad policy to allow these presents to be received, it proves that they might be received if inconvenience in receiving them could be avoided. He supposed the constitutional provision was meant to oblige Ministers to make known to the world whatever presents they might receive from foreign courts, and to place themselves in such a situation as to make it impossible for them to be unduly influenced by any such presents. Indeed, he supposed those presents would produce a directly contrary effect, for when a Minister was known to have received a present of this kind, he would naturally be particularly careful of all his actions, lest he should be supposed to be improperly biased. If presents were allowed to be received without number, and privately, they might produce an improper effect, by seducing men from an honest attachment for their country, in favor of that which was loading them with favors; but any evil of this kind was securely avoided by the notoriety of the act.

What, said Mr. B., is this present? It is a gold snuff-box, a gold chain, a picture, or some trifling thing which could have no possible operation upon any man. It was necessary, he believed, to attend to these little civilities and ceremonies, as the want of attention to them often produced hostility between nations. He had some doubt from the constitution, whether it was necessary in this case, to have applied to Congress at all for leave to have received these presents, as the office of this gentleman had expired before they were offered. Under the old articles of Confederation, a like provision was in being, only that the receipt of presents by our Ministers was positively forbidden, without any exception about leave of Congress; but their being allowed to be received under the present Government, by consent of Congress, shows that they might be received in certain cases. He had, indeed, been informed that, notwithstanding the prohibition under the former constitution, presents were frequently received by Ministers; for, though persons holding offices were forbidden to receive presents, the moment their office ceased, and

they became private individuals, they were no longer prohibited from receiving any presents which might be offered to them. Under these circumstances he thought the resolution ought to be agreed to.

Mr. W. C. C. CLAIBORNE hoped the present resolution would not be adopted. When this subject was first brought into view, he felt inclined to favor the request. This first impression arose from his great personal respect for the applicant, and the desire he felt to gratify his wishes. But, upon a little reflection, it appeared to him that policy dictated the propriety of rejecting the present resolution. So far as relates to the constitutionality of receiving the presents in question, he thought no member would join in opinion with the member from Delaware last up. By recurring to the letter of the gentleman from South Carolina, (Mr. PINCKNEY) it would appear that these presents were offered to him when he was about to take leave of the courts to which he was Minister. He was, of course, at that time, the Minister of the United States, and came within the constitutional prohibition.

The prohibition in the constitution appeared to him to be bottomed on sound policy, and of great importance to the security, the happiness, and freedom of the nation. [Mr. C. read the clause.] The object of this clause appeared to him very different from what had been stated to be its object by the gentleman from Delaware. He believed it was intended to lock up every door to foreign influence, to the influence of courts and monarchies, which could not but prove baneful to every free country. He had been told that it was the custom of Europe, when a favorite Minister was about to take his departure, not only to present him with presents, but also to confer a title upon him; and if the leave now asked was granted, a precedent would be established which he apprehended would, at a future day, bring the question before Congress, whether leave should be given for a citizen of this country to receive a title from a foreign monarch, and thus all the folly and vices of European courts will be brought up for discussion before the Congress of the United States; and he had no doubt characters might be found who would desire such a distinction, and others who would advocate the granting of it. On the contrary, he was persuaded that, if the vote of this House negatived the present resolution, no future application would be made on this subject. The reason, in his opinion, which induced the insertion of a clause in the constitution that presents might be received when leave of Congress was obtained, was this: That in the course of events, a case might exist, in which it might be proper for a citizen of the United States to receive a present from a foreign Government. Many, perhaps, might be named; he thought of one: Suppose an officer of our navy were to render essential service to the vessel of a foreign power in distress on the high seas, it might be proper, in such a case, for Congress to permit the officer to receive any suitable present as a reward for his service and benevolent exertions in the cause of the unfortunate. But, he believed, in all ordinary cases, every present ought to be rejected.

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Mr. OTIS saw no ground for the apprehensions which the gentleman from Tennessee had manifested, as to the effects to be produced by concurring in the resolution now before them. When every present to be received must be laid before Congress, no fear need be apprehended from the effects of any such presents. For, it must be presumed, that the gentleman who makes the application has done his duty, as he, at the moment he makes the application, comes before his country to be judged. In the present case, he supposed no idea could be entertained that our Minister had not done his duty, or that he had been bribed by a foreign power, as a reason for not granting the request. But it was strange that gentlemen should assert that, if presents were allowed to be received, Congress might next be asked to consent to the introduction of titles; for the constitution expressly says, presents may be received, but, with respect to titles, it says, "no title of nobility shall be granted."

Mr. O. said it was altogether a matter of discretion in the gentleman from South Carolina, whether or not he had asked consent to receive the presents in question; for he is at present no officer of the United States, and he might receive them as a private citizen. He believed he had a perfect right to do so, though it might not consist with the delicacy of his character. Mr. O. said he had it from the best authority, that, even under the old Confederation, though presents were unconditionally prohibited, Dr. Franklin, Mr. Jefferson, and Mr. Laurens, received the customary presents on their departure from the foreign Courts at which they were employed. They, to be sure, communicated the fact to Congress after they had received them. And they received them for a good reason, because they could not refuse them without giving umbrage to the Courts which presented them. He, therefore, thought it very improper for gentlemen to suggest difficulties of the kind which had been brought forward, as if the gentleman making the application was personally concerned—it could not be considered as any object to him. The question was merely whether we would conform or not to the customs and usages of other nations, with the presents in question; in which there certainly could be nothing either dangerous or alarming.

Mr. MACON had no doubt Congress had a right to grant leave to receive the presents in question, and believed the determination in this case would fix the usage in future. He believed an application could never be made to the House, in which there could be less objection to the applicant, than in the present case. He was convinced that the gentleman from Massachusetts need not to have said that this was no object to the gentleman from South Carolina. He was sure no one thought so. He believed it was improper to bring any personal considerations into the question. He was sure there had not been a more popular act done for this country for a long time than the treaty which that gentleman had concluded with Spain. But the committee were told that this resolution ought to be adopted, because it was a European custom. If, said he, we adopt this custom, we must adopt another—that of paying foreign Ministers who come here. And



he owned he should not be willing to see any of them carry off the money of his constituents, because he did not think the conduct of any of them was deserving of such a fee.

Mr. BAYARD remarked that the gentleman from Tennessee seemed to be greatly alarmed, lest the agreeing to this resolution should destroy the liberties of the country; and that a precedent of leave being given to a Minister to accept of a gold snuff-box or a gold chain, should hereafter be brought as a sanction to the granting of titles of nobility. But he asked the gentleman, as a lawyer, whether he conceived that a precedent for granting permission to a Minister to receive a snuff-box could be adduced as a precedent for granting titles of nobility? It certainly could not. Therefore, as to precedent, the gentleman might feel himself perfectly at ease. There could be no doubt but that the Congress of the United States might give their consent to a citizen receiving a title from a foreign power; but he could not apprehend that they would ever do so. Was this, then, to be brought as an argument against allowing a gentleman—against whose conduct the most slanderous tongue had never said a word—from receiving the customary trifling presents, on his leaving a foreign Court? He trusted not. He allowed it would be a precedent for the future in this respect, and that Congress might expect to be called upon hereafter for similar permissions. But he did not think there was any thing alarming in this—the amount would be very trifling; and he did not know that having a few additional gold snuff-boxes in the country could produce any material effect. As to the constitutional question, he thought it was as he had already stated it.

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Mr. VENABLE wished that every thing which was said upon this subject might be said without reference to the gentleman making the application, but that it might be considered as establishing a general principle which was to operate hereafter. It was said that it was necessary to accept of these presents as a point of etiquette, and that refusal to accept of them might give offence. He did not believe this could be the case, as it was well known to the European Courts that our Government is established on principles totally different from theirs; and when our Ministers informed them that their Government did not permit them to receive presents, it must be a satisfactory reason for not accepting them. He knew that these presents were sometimes made in pictures, sometimes in snuff-boxes, and sometimes in money. And, said he, if these presents were not sanctioned by custom, would it not appear an indelicate thing to offer these things to a Minister of a foreign country? It certainly would. If the origin of the custom was, therefore, a bad one, the United States ought not to adopt it, since they had now the choice of doing so or not. He hoped the United States would always make sufficient provision for their own Ministers, and not permit them to receive any thing from a foreign Court. A contrary custom, to say the least of it, would prove a very troublesome and disagreeable one.

Mr. W. CLAIBORNE submitted to the gentleman from Delaware, as a lawyer, whether the committee could gather, from any thing before the House, that these presents made by foreign Courts consisted of chains or snuff-boxes? He owned he could draw no such conclusion for himself. But whatever the present may be, it was immaterial to him in the present question, because he was convinced that nothing which a European monarch had it in his power to give, could lessen the patriotism of our late Minister, or alienate his affections from his country. It was not to the amount of the present; and whether it was a snuff-box, or any thing else, which was a thing of no consequence, and ought not to have been named. He objected to the principle of our foreign Ministers receiving presents at all from European monarchs. This principle he looked upon as the more dangerous, because it opened an avenue to foreign influence—an influence among monarchs—which has always proved the destruction of Republics.

Mr. THATCHER was in favor of the resolution. Gentlemen seemed opposed to it on the ground of its establishing a precedent for the future. He did not think this objection well founded; for, as the constitution does not absolutely forbid the receiving of presents, the discussion on the propriety of allowing it in future would not be prevented by the present decision. Future Houses could refuse or grant leave to receive these presents. Mr. T. said, it was the natural right of every citizen who served the country as a Minister to receive presents, and the constitution did not absolutely take away the right. He considered the gentleman who now applied to Congress as having a natural right to receive a present, except some reason was shown to the contrary. Gentlemen allow they know of no special reason; they allow the applicant has done the business with which he was entrusted, well. He supposed, therefore, that gentlemen must themselves vote for it, except they abandon their own ground.

Mr. R. WILLIAMS hoped, by the vote of this day, the House would get rid of future applications of this kind. When the subject was first introduced, he was opposed to it; but, if the question had gone off without debate to-day, he intended to have voted for it. From the discussion which had taken place, however, he was convinced it was a subject upon which they ought not to legislate, since the acting upon it would produce greater evils than the constitution had provided against. He believed they ought here to put a stop to the business. If not, he would rather that our Ministers should be at liberty to receive all the presents offered to them, than the thing should stand upon its present footing.

Mr. BAYARD would tell the gentleman from Tennessee on what authority he informed the committee that the presents in question consisted of what he had mentioned. Being upon the committee to whom this subject was referred, he made some inquiry as to what were the usual presents from the European Courts, and found, that in Holland, it was customary to give a gold chain and medal; in France, a gold snuff-box; and in Spain, a picture. It was on this ground that he said these things were of no consequence. Mr. B. then remarked, upon what had fallen from Mr. R. WILLIAMS with respect to the expense incurred in discussing this subject, and said it had been owing to gentlemen opposing the resolution that so long a discussion had taken place. As to the law which that gentleman proposed to introduce, he must see that the constitution would not



admit of such a law.

Mr. RUTLEDGE said, that, being closely connected in the bonds of friendship with his colleague, who made the present application, he did not intend to have said a word upon the subject; but, when he heard things of a personal nature introduced into the debate, he could not avoid rising. And, with due submission to the chair, he must say, that every thing of a personal nature, introduced on this occasion, was, in his opinion, wholly out of order; particularly when it was said by a member, "If the gentleman from South Carolina is not satisfied with what he has received for his services, I am willing to pay him more." The constitution has said, that the customary presents from European Courts shall not be received without the consent of Congress; and, accordingly, when these presents were offered his colleague at the two Courts at which he was Minister, he declined receiving them, saying, that he would lay the matter before Congress on his return home. He had done so, and he could not see any ground of alarm in this. He felt none of that Republican jealousy which caused his mind to revolt at these civilities. He rose to dissipate, if possible, those ideas of danger which seemed to be apprehended from the adoption of the present resolution—the apprehension that it would break down the barriers which were to keep out corruption from our Government, and introduce a variety of evils.

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Mr. GALLATIN said this question might be considered either as of a personal, or of a general nature. He had heard gentlemen, arguing both in support of and against the resolution, speak of the important services rendered by the gentleman from South Carolina in having accomplished the treaty with Spain. Nor did he conceive this to be out of order. He believed, however, the gentleman himself was perfectly indifferent as to the fate of the question.

Mr. G. had some doubt with respect to the construction of the constitution on this point. If he was well acquainted with the fact relative to this business, it stood in this way: When Mr. Pinckney was sent as Envoy Extraordinary to Spain, he still remained Minister Plenipotentiary at the Court of Great Britain; therefore he was altogether precluded from accepting of the present offered to him by the Spanish Government on his taking leave from that Court; but, with respect to the present offered to him by Great Britain, it appeared to him that the moment a Minister receives his letters of recall, and has taken his leave, he is no longer an officer of the government; and, in such case, both under the present constitution, and under the old Confederation, presents have been received. So far, therefore, as relates to Great Britain, he did not think it was necessary to apply to Congress for their consent.

He had said, that after a Minister has received his letters of recall, there was nothing to prevent him from accepting of a present. He might be told the constitution is lame in that respect; but it was more so with respect to private citizens, because any private citizen might receive either presents or titles from a foreign power. It has not, therefore, effectually shut out corruption. Officers may receive presents by consent of Congress; but any officer, or member of Congress, might accept of presents, either in secrecy, or wait till they are out of office and receive them publicly. Nothing could prevent this but the infamy that would attach to such an act. Therefore, so far as it was contended that a disagreement to this resolution would shut out a source of corruption, it had little effect upon his mind.

But there was another point of view on this subject, which would induce him to give his vote against the resolution. He considered that if Congress gave its assent to this proposition, it would be saying that they approve of the act, and that it is in itself proper that a foreign Minister should receive presents. If it was, in their opinion, proper to accept of these presents, the resolution would be affirmed; but if they were of opinion, that the practice is a bad one; that it is useless in itself, and ought to cease, they had nothing to do but refuse to authorize it. He owned it was proper to keep up civilities, when it could be done by conforming to custom of an inoffensive nature; but when the constitution stood in the way, it ought always to be respected.

The question on the resolution was put, and negatived—44 to 38.

The committee then rose and reported their disagreement to the resolution of the Senate; when the question was taken on concurring with the Committee of the Whole in their disagreement, and decided in the affirmative—yeas 49, nays 37, as follows:

YEAS.—George Baer, jun., David Bard, Bailey Bartlett, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, John Dennis, George Dent, Lucas Elmendorph, Thomas Evans, William Findlay, John Fowler, Albert Gallatin, James Gillespie, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, James Schureman, Thompson J. Skinner, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, Thomas Tillinghast, Abram Trigg, John Trigg, Phillip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, Abraham Baldwin, James A. Bayard, David Brooks, John Chapman, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, David Holmes, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, John Rutledge, jun., Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Peleg

**SATURDAY, May 5.**

***Additional Revenue.***

On motion of Mr. HARPER, the House went into a Committee of the Whole on the report of the Committee of Ways and Means, Mr. DENT in the chair, when the three following resolutions being read, viz:

*Resolved*, That it will be expedient to raise an additional revenue of — dollars annually, by a direct tax.

*Resolved*, That the said tax ought to be laid by uniform assessment, on lands, houses, and slaves.

*Resolved*, That the apportionment of the said tax ought to be made among the several States according to their respective number of inhabitants, as ascertained by the last census.

Mr. HARPER moved to fill the blank in the first resolution with two millions.

The question was put and carried—47 to 25.

The resolution was then agreed to as amended, as was also the second.

The third resolution being under consideration,

Mr. DAYTON moved to strike out the words "last census," as it might be determined when the bill came in whether the number of inhabitants should be ascertained by the last census, or a new one should be taken.

Mr. BAYARD said, the words of the constitution were, "within every term of ten years;" so that a greater period than ten years could not be suffered to pass without taking a census, but it might be taken every year if it were necessary. He believed it would be very proper to have a new census taken before the tax was assessed, otherwise from the great increase in the population of some of the States, since the last census was taken, the tax would not be constitutionally collected, since it is directed to be laid according to the number of inhabitants.

Mr. HARPER said, he should be glad to see a new census taken at an early period, so as to relieve the States from any inequality which might arise from the variation of population which has taken place since the last census; but he trusted it would not be thought necessary to do this before the proposed tax was assessed. The carrying a law of this kind into effect, let it be done in whatever way may be adopted, would be found a tedious business, and the amount to be produced by it, would have to be anticipated by loans; and if a new census was to be taken before the tax could be assessed, it could not be said, with any kind of certainty, when an effectual revenue was to be raised. He hoped, therefore, when so great an inconvenience would be incurred by delaying the tax until a new census was taken, that, though for one year some of the States would have to pay a little more than was justly their portion, they would consent to do so rather than subject the country to so great an inconvenience as would be experienced by such a delay.

Mr. J. WILLIAMS supposed, if the amendment obtained, the tax must be apportioned according to a new census; and, if so, he apprehended the resolution would be disagreed to. Though a new census might be taken within the ten years, he believed that term ought to be nearly expired before a census was renewed. It was true that some of the States are greatly increased in population; but it could not be supposed that States increased in riches in proportion to their increase of inhabitants, as the people who emigrate are mostly persons of little property, who settle upon the back lands. This being the case, he thought it was a wise provision of the constitution which directs that the census shall be taken only once in ten years. If these words were struck out, no tax ought to be laid until the time comes for taking the new census.

Mr. BAYARD would not be in favor of striking out these words, if he thought it would prevent the collection of the tax; but it would be necessary, before the tax could be laid, that an assessment of lands, houses, and slaves, should be made, and he could not see why the number of inhabitants could not be ascertained at the same time.

Mr. R. WILLIAMS wished to know whether the new census proposed to be taken was to affect the representation as well as the tax?

Mr. DAYTON answered in the affirmative. The return of the enumeration of the inhabitants, he said, might be made at the first meeting of the next Congress, by which means the number of Representatives to which each State will then be entitled might be ascertained in time for the succeeding election. If the order was not made at this session for taking a new census, the enumeration could not be returned before the last session of next Congress, which would be too late for the election of the following Congress.

Mr. SITGREAVES said, it would be better for the mover of this amendment, and others who wished to have this tax collected, to suffer the resolution to stand as at present, so that the tax might be immediately assessed by law, and provide at the same time for taking a new census, which no one would object to; and, if it could hereafter be shown that the new census could be taken without prolonging the collection of the tax, it might be done; if not, the tax must be laid according to the present census. The best way would be to strike out the resolution altogether, and then make a provision for taking a new census.

Mr. DAYTON consented to vary his motion so as to meet the ideas of the gentleman last up, by adding after the word "that," in the first line, "until a new census shall be taken," and to the end of the resolution these words: "and that provision ought to be immediately made by law for taking a census of the inhabitants of the several States, agreeably to the constitution."

Mr. GALLATIN believed this amendment consisted of two parts; he therefore called for a division of it. He should vote in favor of the first. The other part he thought perfectly a distinct subject, and not at present under consideration. If a new census was to be directed to be taken, he thought it ought to be done in a separate bill, and not entangled with this subject.

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The question on the first part of the amendment was put and carried, without a division.

On the second, some observations were made, chiefly expressive of a wish to have the provision for a new census separate from the present subject; after which the question was put upon it, and carried, 39 to 29.

The committee then rose, and reported the amendments to the resolutions as agreed to; which being confirmed by the House,

Mr. D. FOSTER moved to strike out the word "annually" in the first resolution.

Mr. GALLATIN was in favor of the motion. It was his intention to have made some general observations on this subject whilst under consideration in the Committee of the Whole; but whilst he was putting down some figures on paper, the question was taken; as they would be equally applicable, he should now make them. They would go to show that this tax was not wanted as a permanent revenue, but solely to meet the present exigencies. He should show that the present revenues of the Union are sufficient to meet the current expenses, and to meet the instalments of deferred and Dutch debt due after the year 1801.

The report of the Secretary of the Treasury states that it is probable there will be a deficiency of \$1,796,705; but supposing that, from the present situation of the country, our expenses may be greatly increased, and our revenue defalcate, the certainty of a great augmentation in the ordinary expenses by the deferred debt, and the increasing instalments of the foreign debt, the Committee of Ways and Means do not think it safe to contemplate an additional revenue from permanent sources of taxation to a less amount than two millions of dollars.

In looking into the statements of the Secretary of the Treasury, it would be found that most of the objects of expense brought forward to show the necessity of a permanent tax are of a temporary nature. He has estimated the expenditures for the year 1798 to be \$6,926,460; in order to ascertain what will be the permanent expenditures of the Union after the year 1800, it is necessary in the first place to deduct from the sum those items which are not of a permanent nature; and, as he would add a sum for the Dutch debt due after 1801, Mr. G. said he would also deduct the instalment of \$80,030 due for the present year. The first item of a temporary nature was a sum reported for deficiencies in the Military Establishment of \$164,000. Every gentleman who had attended to this subject, when it was lately before the House, must be convinced that sufficient sums had been appropriated under this head, and that deficiencies must be considered as extraordinary not likely again to occur. Second, \$103,000 were set down for diplomatic expenses; the permanent establishment was now fixed at \$63,000, and \$40,000, therefore, were a temporary expense. Finally, the following items were stated by the Secretary himself as temporary, viz: for light-houses, in addition to the usual appropriation, for expenses incident to the treaties with Great Britain and Spain, and for reimbursing the unfunded and registered debts, and for the payment of old accounts, a sum of \$546,000. The last item not yet agreed to by this House. These several articles amount to about \$830,000, which, deducted from the expense of 1798, as calculated by the Secretary of the Treasury, will leave a balance of about \$6,100,000 for the permanent ordinary expenses, civil, military, contingent, and relative to the present debt. To this must be added \$1,146,370 for the interest and extinguishing annuity of the deferred debt, payable in 1801, and also the sum necessary to pay the principal of the Dutch debt after that year. The Committee of Ways and Means have reported the foreign debt which will become due in 1802, 1803 and 1804; but, by taking the aggregate of all the years, it will be found that an average sum of \$800,000 a year will pay the whole of that debt in twelve years. This last item, the \$1,146,000 for the deferred debt, and the \$6,100,000 for ordinary expenses, makes the aggregate of \$8,046,000 for the permanent expenditures of the Union after the year 1801, including provision for paying the whole of the principal of the foreign six per cent, and deferred debt according to contract.

This, in time of peace, would be the extent of our expenses, especially as there are a number of items which might be reduced, and in that calculation no reduction is introduced in the Naval, Military, or Diplomatic Departments, or in the Civil List. If the current revenue be examined, it will be found to exceed this amount. The amount of revenue, as calculated by the Secretary of the Treasury, for the present year, is \$8,011,897. But to this must be added the deduction of \$549,649, which he has made from the duties on imposts and tonnage, from an apprehension of a defalcation in this part of the revenue, on account of capture, and which was of course to be considered as temporary. To this there should also be added the duty on salt, laid at the last session, which could not make any part of this estimate. That duty was eight cents per bushel, and calculating the quantity of salt imported at three millions of bushels, it will amount to about \$250,000. There was also a number of additional duties, laid during the last session of the last Congress, which would not raise less than \$350,000, viz: two and-a-half per cent, on all white cotton goods imported, and an additional duty on tea, brown sugar, and molasses. These two sums make \$600,000, and added to the above \$500,000, deducted this year on account of captures, would make the permanent revenue, in time of peace, equal to \$9,111,897, which

would exceed our expenses by \$1,000,000. This is clear from the papers before the committee. It was suggested that some of his deductions for expenses were improper, or that he might be mistaken in his expectations of revenue on some items, yet this surplus million, which was equal to one-eighth of the whole expenditure, would certainly cover any mistakes of that kind. Besides, there is every reason to believe some of the branches of the revenue will be more productive, on account of the increase of population in 1801, than now. Mr. G., therefore, agreed with the gentleman from Massachusetts (Mr. VARNUM) that the present revenues of the nation are equal to all its expenditures, including therein the redemption of the public debt, except in case of war. The gentleman from Maryland (Mr. SMITH) seemed to be of the same opinion, and, indeed, the Chairman of the Committee of Ways and Means had formerly made a similar declaration. It would, therefore, be improper to vote a permanent tax, when the objects for which it was wanted were not of a permanent nature.

Two years ago, Mr. G. said, he was in favor of a permanent land tax, as he then thought it would be wanted to meet the demands which would come against the Government in the year 1801. He was of that opinion, because he did not wish to see the list of indirect taxes swelled beyond what it was; but Congress were of a different opinion, and had, since that time, laid indirect taxes on salt, sugar, stamps, &c., to the amount of \$800,000 a year, and have so far diminished the necessity of a direct tax.

There was another thing in which he had been agreeably disappointed. The mistake was common to almost every individual, as well as to himself. It was in relation to the amount of duties which would probably arise from imposts and tonnage, and which were productive beyond the most sanguine expectations. The estimates of the Secretary of the Treasury then fell short of the real amount by upwards of a million of dollars, and the same thing had taken place last year. If, however, in the year 1801, a diminution should take place in the product of those duties, the land tax might then be made permanent.

Mr. G. concluded by saying the tax of two millions was already agreed to for one year, though he thought it too large a sum. He could see no objection to its being made an annual tax as in Great Britain, as it could not be doubted that if the money was wanted for another year, the act would be annually renewed.

Mr. HARPER confessed himself very much alarmed at this motion. He saw in it, and in the arguments of the gentleman from Pennsylvania in support of it, the second leaf of the book for keeping this country in an utterly defenceless state—and another attempt made to render those measures which had been taken nugatory, by effectually tying our hands; and therefore it was that he saw this motion made with grief and astonishment, by his friend from Massachusetts, whose motives he could not suspect.

The gentleman from Pennsylvania, said Mr. H., reasons as if we were in a state of profound peace, and as if we had nothing to apprehend from abroad; as if all our disputes were settled, and we had nothing to do but pay the expense of the preparations of defence gone into, and then at all future times we should rest in security. This was the basis of his speech, and he could not entertain so low an opinion of his understanding as to believe he thought it a good one. That gentleman must know, every one must know, that this country is not in a settled state of things, but that we are threatened, and speedily, with a war. No longer ago than yesterday the House was informed that our Ministers had presented their final memorial, and that if they did not soon receive an answer to it, they should give up their mission and return home. Far from desisting from her attacks upon our commerce, France goes on increasing them. Her former violations of right have been greatly increased. They had been told by the papers on the table of the subjugation of our country, of the fate of Venice and of Hamburg. She talks of sending frigates against us, of ravaging our coasts; she has spoken of internal divisions, of a party in this country on which she can rely. We had heard, though not officially, that orders had been issued for taking all our vessels, and executing our citizens as pirates, yet gentlemen sit down with counting-house exactness to calculate the amount which it will take to defend ourselves. This was, however, perfectly consistent with the rest of the conduct of the gentleman from Pennsylvania, because he has constantly set his face against every measure of effectual defence, though he has constantly talked of being willing to concur in what he considered measures of defence.

But will the House thus be acted upon? He trusted not. He could not relinquish the pleasing persuasion that a majority of this House is determined to defend this country against a foreign foe, that they are desirous of protecting their property, their wives, and their children, and that they will rend from their eyes the veil which the gentleman from Pennsylvania has endeavored to cast over them. That they will defend themselves against a foe who relies upon our weakness, upon our calculations of avarice, upon the exertions of men among us who are to paralyze all our efforts to defend ourselves, and upon a prostrate colonial spirit in this country. The existence of this spirit would be confirmed were the present motion adopted. Why? Because the complete defence of the country is not to be effected by two millions of dollars. Mr. H. recapitulated what had been done by way of defence; but said these amounted to nothing, they were only measures of precaution a commencement of defence, and if those events take place which all think probable, a much larger sum of money will be wanted. Mr. H. said it would be seen, by the report of the Committee of Ways and Means, that they did not take into view the expense which might be incurred for the military defence of the country, either by a provisional army, or by detachments of militia. And would any one say that it would be proper to rise without providing a military defence for the country? Or could they say that no part of the 80,000 militia, ordered to be held in readiness, would not be called into service? Or would it be proper to sit down, satisfied that our enemy will not invade us, though they see we are not prepared to meet them? He hoped

not.

Mr. OTIS wished to inquire of his colleague, before he proceeded to make any observations, whether he would consent to withdraw his motion, and admit of another in its place; but as he did not see him in his place, he would state what his proposition was. He supposed it was the object of his colleague to prevent the tax from being permanent. He knew that gentleman too well to believe he wished to render the tax futile. He proposed, therefore, instead of this amendment, to retain the word "annually," and to add "until all loans that may be authorized by law on the credit of such tax be reimbursed."

Soon after the late despatches from our Ministers were read to this House, and the common sense of the community was convinced of the necessity there was for immediately going into measures of defence, speaking of the agreeable unanimity which seemed to prevail in the House, it was prophesied to him, by men who had been much longer in this body than himself, that, notwithstanding all this appearance, yet certain gentlemen in the House would take care so to embarrass the detail of the business, that they might just as well have refused to assent to the principle. [Mr. DANA hoped these remarks were not meant to apply to the mover of the present proposition.] Mr. O. said he felt some difficulty in speaking on this subject, from the motion coming from the quarter whence it came; but he trusted his friend would not apply these remarks to himself. [Mr. VENABLE hoped the gentleman did not mean to insinuate that any gentleman was actuated by improper motives. The SPEAKER said it was improper to speak of motives.] Mr. O. added, that his object was to show that the opposition made to this tax would have nearly the same effect as voting against it in the first instance; for he doubted whether a shilling could be got upon it, if passed in this way. Perhaps many wish that this should be the case; they may think the money is not wanted. If there was any wisdom in thus acting, he could not see it, and therefore could not give gentlemen that credit for their actions which they may think they deserve. Mr. O. expressed his astonishment that gentlemen who were two or three years ago in favor of a land tax, should now be wholly opposed to it. He also added that he had heard another prophecy, which was that many gentlemen who were always averse to a land tax would not now agree to it, but attempt to defeat it, however willing they were to go into measures of defence for the country, when those measures were unconnected with the raising of money. He hoped this would not come true.

Mr. R. WILLIAMS observed, it was a fortunate circumstance that the present motion was made by the gentleman from Massachusetts, though, even that circumstance could not secure gentlemen from abuse; for though his friends cannot but allow the mover's motives are pure, yet they have imputed the worst views to those who support it.

The gentleman from South Carolina (Mr. HARPER) has, as is usual with him, consumed one-half of his speech in censuring the conduct of members of this House, because they do not agree with him in opinion as to what is the proper defence of this country, and in recounting what France has done in Europe.

As to what that gentleman had said with respect to motives, he believed every gentleman had a right to deliver his sentiments freely, without being subject to the lash of that gentleman, or any other. How could it be fairly argued, because gentlemen desired to limit the duration of this law, that they were unwilling to defend their country? No such conclusion could be drawn. He believed the people of this country would always be found ready to defend themselves, as far as their own interests and the interests of the country required; but not to defend other nations. The gentleman from South Carolina never spoke on the subject of defence, but he went into Europe, to tell the House what was going on there. He thought enough had been said on this subject.

The gentleman had talked much of national honor and national dignity; but he wished him to recollect that national honor and national dignity were national interest. But the dignity and honor, which were too often spoken of, were mere phantoms; and what is looked upon as disgraceful in one country, may be looked upon as honorable in another. But the dignity and honor which he spoke of were the same in all countries; they were the interest of the people. He believed that some gentlemen would even account it honorable to go into Europe, and endeavor to raise up all the crowned heads which had fallen in the course of the present war. He liked no such honor.

The gentleman from South Carolina has not only to-day, but often, reprobated the idea of introducing calculation into our debates when measures of defence have been under consideration; whereas it appeared to himself the true ground upon which they ought to act. He believed, if nations in general were to sit down and count the cost before they went to war, one-half the blood and treasure which are now caused to flow, would in such case be spared. Wherever a nation was about to enter into a war to support its rights without its jurisdiction, it was perfectly right to sit down and calculate the expense of doing it; he agreed, when a country was attacked upon its own territory, that was not the time to talk about expense. It appeared to him, in such a situation, our defence would not so much consist of money as of individual exertion. In his opinion, free men fought for liberty, and slaves for money.

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The House was told, that if this money was not wanted, it would be safe in the Treasury, or applied to the reduction of the public debt; but he believed it would not be in the power of the gentleman from South Carolina to convince him, or the people of this country, that the money will not remain as safe in the pockets of the people, until it is wanted, as in the Treasury. He believed the willingness of the people to give the money when it is wanted cannot be questioned; and if that gentleman had all the reliance upon the people which he pretends to have, he would not wish to take their money when he was not certain it would be wanted.

As to our late despatches, containing the conversations of X, Y, and Z, which gentlemen seemed so much to rely upon, he confessed his opinions had not been at all changed by them. He believed, before they were communicated, that this country had been greatly injured by France, and he was not ready to take any step now that he was not ready to take before. He believed that he, and others who voted with him, should be as willing to defend the country, in case of danger, as those gentlemen who are continually raising up military phantoms for the purpose of knocking them down again. He hoped the amendment would be agreed to.

A motion was made and carried to adjourn, without the question being taken.

**MONDAY, May 7.**

***Presents to Ministers.***

Mr. PINCKNEY said, he rose to request leave to withdraw the resolution which had yesterday been laid upon the table by his colleague, Mr. HARPER, without his knowledge, respecting a business which had already been decided relative to himself, as it was founded upon a ground which was at least doubtful, and he thought out of order.

The SPEAKER interrupted Mr. P. to say that he would save him the trouble of any farther observations, by saying that he deemed the motion out of order.

Mr. PINCKNEY hoped, notwithstanding, he should be permitted to make a few remarks on the subject.

The SPEAKER replied, that any remarks upon a business already decided would not be in order, and could not be admitted without general consent. A pretty general cry of "I hope the gentleman will be permitted to proceed," being heard, Mr. PINCKNEY went on.

He said, it was with reluctance he took up the time of the House a moment in a matter relating to himself, particularly at present, when so much important business pressed for consideration; but he wished to state his reasons for wishing this motion to be withdrawn, lest it should seem to have been brought forward by his consent. He was grateful for the good intentions of his colleague, because he doubtless thought the vote which had passed on the preceding day might cast some imputation upon his, Mr. P.'s, character. But he also wished it to be withdrawn, because it was founded on at least a doubtful suggestion, viz: that it is not customary for the United States to make presents to foreign Ministers leaving this country. He believed it was customary to do so. But another reason for wishing it to be withdrawn was, that the discussion of it might not subject him to a species of trial as to his public conduct, in which he should not be at liberty to make his defence. He should never shrink from any authorized investigation of his conduct; but he should wish to avoid any unauthorized proceeding of that kind.

But his principal reason for troubling the House was to assign his reasons for addressing a letter to Congress on this subject, apparently of so trifling a nature. With respect to the present offered to him by the Court of Spain, it would have been improper for him, under any construction of the constitution, to have received it, as he was at that time also Minister to Great Britain. Upon this ground it was that he wrote to the Spanish Minister declining the acceptance of the present offered to him from that Court, except he should obtain leave of Congress to do so. This being the case, whatever might have been the propriety of accepting of the present offered to him by the Court of Great Britain, there would have been at least an appearance of inconsistency to have received a present from one Court and not from the other. He therefore gave the same answer to both.

This he hoped would account satisfactorily for having troubled Congress with any application on this subject. It was from a respect which he thought due to the Court of Spain, from the favorable treatment he had received from them, and being fully satisfied with all their conduct towards him, that he thought it proper to make the application. The other, respecting Great Britain, was involved with it.

Mr. P. said, he did apprehend there would have been a propriety in this House, at the time they rejected the resolution sent from the Senate, to have assigned a reason why they did so. He would say why he thought so. He thought the constitution expressly allows, that, in some cases, presents may be received from a foreign power, but that the power of deciding upon this shall be left in the hands of the Legislature, as a check upon officers that they may not improperly receive any presents from a foreign power. But, considering this power to have been intended as a check upon the improper conduct of officers, it must strike the minds of the public when they are told that an officer was refused this privilege, that he had not done his duty, especially if the refusal was unqualified, and unaccompanied with any reason for the refusal, and that the refusal was intended as a censure upon his conduct.

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It was in this point of view, that he conceived the conduct of the person to whom this privilege was refused, was implicated, without an opportunity of being heard in his defence. He should be far from wishing any resolution to be entered into approving of his conduct; but there was a great distinction between approving and disapproving; between censure and applause; and although he did not desire applause, he could have wished to have avoided censure. All that he wished had been done was, that the House should have stated something of this kind, "deeming it improper that the diplomatic agents of the United States should receive a present from any foreign Prince or State, the request cannot be complied with;" as, without this, the natural inference must be, that there has been some misbehavior in the officer, or the usual privilege would not have been

refused. He called it usual, because whenever it had heretofore been applied for, it had been invariably granted, and the rejection of the resolution from the Senate, must, therefore, be looked upon as establishing an imputation upon his character. It was saying to the world, "Every other person in a similar situation, has been permitted to accept of these presents, but you, and you alone are an exception; you cannot receive them." Such a person may have been worthy of condemnation; he may have betrayed the interest of his country; but it was injustice to that person to condemn him without a trial.

Mr. P. said, he thought it necessary, in justice to himself, to make these observations before the House, from a regard which he felt, in common with other gentlemen, for his reputation—more particularly as this matter would appear upon the journals of the House, and might not only reflect upon himself, but upon his children after him; they might be pointed at by the finger of scorn, as the offspring of a man who had betrayed the interests of his country. It was under the impression of these ideas that he had been led to trouble the House, and he trusted he should stand excused for having done so.

Mr. McDOWELL rose, but was prevented from speaking by the SPEAKER, who declared that nothing more could be admitted on a subject which was not before the House.

Mr. HARPER rose. He was also checked by the SPEAKER, but not before he had declared he brought forward the motion in question without the knowledge of his colleague.

### ***Additional Revenue.***

The House then proceeded to the order of the day, when the SPEAKER having stated the question to be to strike out the word *annually* in the first resolution,

Mr. D. FOSTER rose, and observed that, for a justification of himself to those who knew him, he need not declare that the motion, which had caused so much agitation, was made with good intentions; that it was not designed to embarrass the measures of Government, or with a view to prevent a provision of revenue adequate to the present or probable future exigencies; or from any reluctance on his part to concur in every measure requisite for an effectual defence of our country. To the uniform tenor of his conduct, on all occasions, since he had the honor of a seat in this House, he would cheerfully appeal. Those with whom he associated knew that nothing was more dear to his heart than the honor, the dignity, the liberty, and the independence of his country. He did not, therefore, consider many of the remarks which had been made on this subject, as applicable to himself, nor should he take any measures whatever to repel them. If his friends intended he should make a personal application, their object was lost. Alike indifferent to censure as applause, when unmerited, he had ever done, and, as far as he could be informed, he would continue to do, what, at the time, appeared to be his duty.

He was as deeply impressed as any gentleman of this House could be, with a sense of the necessity and importance of sufficient and productive sources of revenue. Measures for defence must be expensive; without the means to carry them into effect, all our acts and resolutions are vain and futile.

Protection to our commerce, defence to our frontiers and sea-coasts, security to our rights as a nation, energy and respectability to the operations of Government, are not to be obtained without money, and if the present revenues are not sufficient, more must undoubtedly be provided.

Although he did not mean to pledge himself that he would vote for it, he should be glad to see a bill before the House, that opportunity might be given to examine the subject in detail. Since the motion he had submitted had been thought so exceptionable, he was willing for the present to modify it. If gentlemen would concur with him in a substitute, he would withdraw the motion to strike out the word "annually," and propose to add, as an amendment at the end of the resolution, the following words:

"To be collected for a term not exceeding — years; provided the Legislature of the United States shall at all times be at full liberty to substitute other duties or taxes of equal value in lieu thereof, for the purpose of discharging any debts or loans which may be contracted on the credit of said tax."

Mr. HARPER rose to second the motion, because it concurred with his ideas on the subject, that the revenues ought to be commensurate with the debts incurred. He need not repeat, he said, that he had always been opposed to a land tax, except in the case of a war, or of preparation for war; but he now believed it necessary.

Mr. MACON hoped this motion would not prevail. In the State from which he came, they had an annual land tax, and found no inconvenience from its being annual. He had no idea of a permanent tax on land, as all the State Governments collected their revenues from this source, or from a capitation tax, every other object having been seized upon by the United States. The idea of the tax being laid for a number of years, would make it more unpopular than any thing else. All our revenue laws are temporary. But it was said it was necessary that this tax should be permanent, in order to obtain loans upon it. He believed loans might very well be obtained upon it, though it were passed annually; for certainly those who loaned the Government money would have so much confidence in it as to believe that it would pay all its contracts fairly and honorably. He did not believe that all the money appropriated could be expended before the next session of Congress. Besides, there is a surplus million in the Treasury, ready for any purpose which the Executive may think proper to apply it to.

But it had been said, advantage ought to be taken of the present moment to get this tax. The

same thing was said with respect to the Navy. He did not think it necessary to take advantage of the present enthusiasm of the people to collect a tax; the people would always obey the laws.

Mr. FINDLAY said, it was admitted, on all hands, that it depended on a contingency whether this tax would be wanted at all. For his own part he was under no apprehension of any formidable invasion of this country taking place before Congress meets again. If France is desirous of making conquests, there are more preferable objects to this country nearer home. The difficulties which have so long agitated Europe are not yet so far settled as to suffer France to send out any formidable force here. Let the conduct of the French Government have been as bad as it can be painted, it cannot be said that it has ever wholly lost sight of its own interest, and it would not be her interest to make an invasion of this country at this time; and, therefore, there is no necessity for going into measures as if an invading army was immediately expected amongst us.

A land tax was with him a favorite tax. He had long wished it. He was for adopting it some time ago, and for taking advantage of a low market, to bring up the public debt. But when he came to inquire into the subject, he found that many of the States had laid direct taxes for the support of their own Government. There is now an appearance of necessity for this tax; but being a new tax under the General Government, and not likely to be very satisfactory to some parts of the Union, it would be proper to make the law of short duration. Upon constitutional ground he was against continuing a direct tax longer than two years; every Congress ought to pass a vote upon it; but, in the present instance, he believed the law would be best if passed for one year.

Mr. F. concluded by observing, that if this law was passed for one year, he could confidently rely on future Congresses to renew it, if the situation of the country should require it. It would not hereafter be convenient for him to take any farther share in the public councils, but he should not distrust the wisdom and patriotism of those who might follow him; and to do away the charges continually made against himself and others, that they were not willing to defend the country, he should call the yeas and nays upon every question of defence which came before the House.

Mr. S. SMITH did not like the amendment; but he should vote for it, because, if he could not get all he wished, he would get all he could. If the blank was to be filled with two or three years, (as had been intimated,) it would not go far enough to induce moneyed men to rely upon it as a permanent security.

There seemed to be no difference of opinion as to the propriety of laying a direct tax; it only seemed to be as to the length of time which it ought to be laid. He agreed with those gentlemen who assert that money cannot be borrowed, except a permanent fund be provided. But gentlemen say, where are your expenses? Certain expenses have been agreed to, which are proposed to be met by a direct tax of two millions; but could it be supposed that the proceeds of this tax could be brought into the Treasury in less than eighteen months? They could not, and something must be done in the mean time to raise the money already voted, whether any war takes place or not. How was this to be done? By loans alone. But what inducement will there be to moneyed men to lend money, except a permanent revenue be made the security? You hold out the credit of the United States, which has not heretofore been injured. This is true. But heretofore we have not been engaged in war; we have had nothing to impede our revenue. But if a war takes place, it is possible our revenue may suffer very materially; and Congress are about to provide a fund which, in the opinion of some, will leave no permanency, and in the opinion of others, very little. And would it not require a great degree of patriotism in gentlemen to lend twenty shillings for twenty shillings, when they can go into the market and purchase them with sixteen. The difference of opinion on this subject, he was convinced, arose from the different pursuits of the members of that House. Certain gentlemen believed moneyed men would advance money without a permanent tax as a security. He believed the contrary; for, however great a confidence they may have in the honor of future Congresses, they would wish to see this Congress do something for their security. He feared gentlemen were not in earnest when they spoke of defending the country. We have men, said he, but we want money. He did not agree with the gentleman from North Carolina (Mr. WILLIAMS) that slaves fought for money, and freemen only for liberty. If he commanded a regiment of militia, he believed they would expect to be paid, and he could not believe he would term them slaves. Money must be had.

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The gentleman from Pennsylvania was afraid of making the revenue permanent, because, as our revenue increased, it had been usual, not to repeal our revenue laws, but to increase our expenses. Whence did he collect this information? Not from the documents on the table; for there he would find that there was an unexpended surplus of one million nine hundred thousand dollars, which were in 1797 applied by the Commissioners of the Sinking Fund to the reduction of the public debt. We have, said he, gone on decreasing our expenses. It was true, that our dispute with Algiers, and a war with the Indians, had cost a great deal of money; but when the war with the latter was at an end our expenses were decreased. And now an income of expense is asked for to repel threatened danger, and gentlemen have voted measures of defence; but now they come to touch the expense, they flinch. Men may moralize and talk about defence as much as they please, it will avail nothing without money.

Mr. VARNUM hoped the motion under consideration would be negatived. The gentleman from Maryland (Mr. S. SMITH) gave two reasons on Saturday against striking out the word annually. One was, that it was necessary the tax should have some permanency, in order that money might be borrowed upon it; and another, that it might be a substitute for indirect taxes. That gentleman allowed, and he perfectly agreed with him in opinion, that in case of war, the defalcation in our revenue, he did not suppose, would be large, and that in our present situation he had no idea of a defalcation. If, then, a defalcation of our revenue was not to be expected, he thought he should be able to make it appear that the proposed tax is not necessary at all; and, of course, that it will not



be right to pass it for more than one year. But the gentleman from Maryland says the people ought to be relieved from indirect taxes, because, for every 12-1/2 per cent. duty, the consumer pays 27-1/2. Does that gentleman wish, then, that the merchant should be deprived of a profit of 15 per cent. on the duties which he now pays? If so, this might be very well effected, without doing away the duty, and substituting a land tax in its place, by the merchants lowering the price of their goods 15 per cent.

But the gentleman added another reason for passing the law for a number of years, viz: that this tax might be at any time repealed. But, although this House might consent to a repeal of this tax, it was by no means certain that the other House would consent to its repeal. Indeed, it was his opinion, that if this tax was established as a permanent tax, that the people of this country would not be relieved from it for many years. Many objects, he had no doubt, would be found out by gentlemen, ever fruitful in this respect, upon which to expend any surplus which might arise from this tax.

The gentleman from South Carolina, on Saturday, brought into view our situation with respect to France, and our liableness to an attack from that nation. He alluded to the conversation which took place between our Envoys and X, Y, and Z, and thence inferred that it was probable that this country would be attacked by France. He could not say that all the propositions made by these unauthorized persons were not from the Directory; but there was no evidence of this, and therefore he could not believe it, especially as the agents themselves declared they were not. He thought, therefore, if we wished to preserve peace with France, that we ought not to be too forward in believing all which was said by X, Y, and Z, was authorized by the French Government. He hoped it would prove to be the contrary, and that when the Directory shall discover what has been done, they will punish these persons for their conduct.

The question was put and negatived—46 to 35.

Mr. D. FOSTER then renewed his motion to strike out the word "annually," which was carried, there being sixty votes for it.

The question on the amendment providing for the taking of a new census, was put and carried, there being 57 votes for it.

Mr. READ moved an amendment, which went to strike out the provision which proposes that the tax should be laid by a uniform rule through all the States, with the view of inserting in its place the following words:

"And upon such other estates within each particular State as are taxable according to the established rule of direct taxation in each State."

The motion was negatived, there being only twenty-one votes for it.

The report was referred to the Committee of Ways and Means, to report bills accordingly.

## **TUESDAY, May 8.**

### ***Naturalization Law.***

Mr. SEWALL called for the order of the day on the third resolution reported from the Committee of the Whole, on the subject of aliens, and the consideration of the following amendment being resumed, viz to add to it these words:

"Between which and the United States, there shall exist a state of declared war:"

It was agreed to; and referred to the select committee on commerce and defence, to report a bill accordingly.

The following is the resolution as amended by the House:

"*Resolved*, That provision be made, by law, for the apprehending, securing or removing, as the case may require, of all aliens, being males, of the age of fourteen years and upwards, who shall continue to reside, or shall arrive within the United States, being natives, citizens, or subjects, of any country between which and the United States there shall exist a state of declared war, or the Government of which shall threaten, attempt, or perpetrate, any invasion or predatory incursions upon their territory, as soon as may be, after the PRESIDENT OF THE UNITED STATES shall make proclamation of such event; providing, in all cases where such aliens are not chargeable with actual hostility, that the period settled by any treaty with such hostile nation, or other reasonable period, according to the usage of nations, and the duties of humanity, shall be allowed, for the departure of such aliens, with all their effects, from the territory of the United States; and excepting all cases of such aliens to whom passports or licenses of residence may be granted, consistently with the public safety."

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## **THURSDAY, May 10.**

### ***Provisional Army.***

## **GENERAL SUMTER'S VINDICATION OF THE SOUTH CAROLINA MILITIA.**

This favorite scheme of raising a standing army must be pushed forward by every aid of fact and fiction, and that its success may be insured, the Southern members are to be terrified into its adoption, for we are told that the Southern States have much to fear, that there is every reason to believe the Southern States will be speedily invaded by a merciless and vindictive foe from the West Indies. That at this moment thousands may be disgorging on our shores; that they are prepared to strike. And the gentleman from South Carolina (Mr. HARPER, one of his colleagues) has, in the height of his zeal for American defence, or his fears for the safety of the Southern States, or from some other cause, which he did not pretend to divine, by his nice and minute delineations of the condition of the Southern States, shown to the House a terrifying picture of Southern imbecility, and had also published to this cruel, malicious, and insidious enemy, (as he terms them,) an enemy sufficiently penetrating without his aid, every point, every avenue, every position, most advantageous for them to take in attack; he has exposed our most vulnerable parts to their inveteracy, and our wealthiest part to their rapacity. The policy or prudence which dictated the detail, he did not stop to examine, but went on to ask, supposing these marauders were disposed to invade the Southern States, whether it would not be allowed that they were too fully and completely occupied nearer home, to be at liberty to execute at this time their intentions of such an invasion? For his part he thought such was their condition, and expected it would continue to be so for some time to come; but, admitting that it is possible for the man who has been mentioned, to invade our coast with the three or four thousand men spoken of, the consequences predicted are not likely to follow. The reasoning of his colleague being admitted, perhaps his conclusions might also; but the former not being just, the latter could not result.

He was aware that the number of inhabitants of the lower country, of the States of Georgia, South Carolina, and North Carolina, as stated by his colleague, was not very great; but he did not consent to the deduction which the gentleman had made, that, therefore, the lower country was very weak in point of force to oppose an invasion. And here he deemed it proper to notice the attempt which had been made to draw invidious distinctions between the militia force of our country and what are termed regulars—attempts constantly made by the advocates of standing armies, not only on this occasion, but on many others—not only on this floor, but in the other branch of the Legislature, and very lately, in a pointed manner, by his colleague, (Mr. HARPER,) who pressed the establishment of a standing army by depressing the manly character of his fellow-citizens: he (Mr. HARPER) had said he was well acquainted with the Southern States; that the inhabitants on the seaboard are few, that for fifty or sixty miles they are still fewer, that the strong population is quite remote, that the whole in general are badly armed, many altogether without arms; that they are not well organized, and even if they were, they are not to be depended upon, unless headed and aided by regular troops; in short, that no good can be expected from the militia, unless they are supported by regulars.

It is an unpleasant thing, said Mr. S., for me to have to make any remarks on a subject of this sort; but so frequently have gentlemen made invidious distinctions between the courage and efficacy of militia and regulars, and with so much injustice to the former, that I cannot permit their assertions any longer to pass without notice. For doing this, I do not mean to derogate from the merit of the late American regular army, nor more particularly from that part of it which served to the Southward, of whose condition I can better judge than of that which served in the Middle and Eastern districts; as to them I am bold to say, they were not inferior, under all circumstances, to any army of equal numbers and equal opportunities which I have heard or read of in any time or in any place; but, then, it must also be remembered, whatever gentlemen may here say to the contrary, that the militia were as serviceable and as successful as any regulars whatever.

He said he would take a cursory review of the services of the militia in one of the Southern States, which would tend to support his last declaration.

He would quote only a few cases out of a great number where the militia had acted alone, without any co-operation or support from the regulars, and that against the veteran and conquering cavalry and infantry of British corps, and in which actions they were distinguished for their bravery and success. It may be remembered that very partial, if any, impressions had ever been made by our regular troops on the British corps of cavalry during the early period of war; and it seemed to be reserved to the Southern militia to convince them that their equals existed in our country. It is not to be attributed to the want of courage or discipline in our regular corps that this had not been done before, but to imperious circumstances which no skill could overcome; but this did not change the fact.

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After the fall of Charleston in 1780, the first action, and that fought by the militia, without any aid from our regulars, was the action of Fishing Creek, where, without entering into a minute description of all the circumstances attendant on such an occasion, it will be sufficient to say, that the gallant Captain Rooke, who commanded a squadron of Tarleton's legion, fell, and the whole force was beaten and dispersed.

A few days after—and here permit me, said Mr. S., to remark, that if my colleague does not remember, and our historians have neglected to record the achievements of the militia, yet justice is in some degree done them by a British historian, who was an officer in the British service in that part of our country, and at the very time I am speaking of, who corroborates my facts—a few days after an attack was made by the militia on Rocky Mount, and Colonel Turnbull, who commanded the enemy's force, and who is now in New York, I have no doubt has candor enough to acknowledge, that from the contest he had with them, (although strongly defended by well constructed works,) and which lasted ten hours, there is something due to their bravery and the effect of their arms.

Eight days after the affair on Rocky Mount, an attack was made on the British at their posts of the Hanging Rock. The force on this occasion consisted of the same corps of South Carolina militia who had enterprised on the other occasion; they were in number about 600; they had been joined by a few of the militia from North Carolina, and it is a pleasure to reflect on the cordiality and bravery displayed by them on this occasion.

The enemy's force at this post was 1,200 effectives; yet the result was, after an action which lasted through the greatest part of the day, that Major Bryan's corps was totally defeated, the Prince of Wales' regiment exterminated, even its name has never since been recorded. Other detachments from the 63d and 71st, under the command of Major Camden, were also cut up, driven from their encampment with the entire loss of baggage, &c.; and, in the course of this action, Captain Kinlaw, with a squadron of Tarleton's legion, arrived from Rocky Mount, made a desperate charge on the militia, was repulsed by them, and fled to Camden, without attempting to renew the combat. In this, as well as other actions, it ought to be remembered how many field officers, brave captains, and other officers, as well as valuable citizens, fell, or were wounded, while another nation had to regret in this action alone the loss of upwards of 800 men.

Passing by a number of important and considerable conflicts which took place between the British regulars and the Southern militia, still unsupported by regulars of our own army, said Mr. S., I come now to mention the attack which was made in the neighborhood of Winnesborough, while Lord Cornwallis laid in that town, upon the South Carolina militia, by a British regular force under Majors Wymes and McCarthy, supported by two troops of cavalry, the whole corps drawn together and formed for the purpose; after various charges made by the infantry and cavalry, and after repeated repulses, the enemy was totally repelled, their commanding officer wounded and taken, together with a number of his corps, and the rest were dispersed.

On the return of Colonel Tarleton to Winnesborough another effort was made, and from the number as well as the nature of the troops employed, it was certainly intended to be effectual in driving the South Carolina militia from that part of the country; for it was Tarleton's legion, McCarthy's corps, and that part of the 63d, under Major Money, which troops were led to the attack of the militia on the 20th of November; the result of this action is known to those who do not wish to detract from the merit of the militia. The enemy's detachment consisted of 270 legionary horse, and upwards of 400 regular infantry, with two field-pieces; the militia were between five and six hundred, without (as indeed they were through all the actions I have described) a single piece of artillery. In the number of militia are included some Georgians, who not only acquired honor to themselves from their exertions on that day, but did honor to their country. The fate of the British cavalry was then decided; they had been formerly unconquerable, but after that day they were never known to be brought to act with either energy or effect.

Knowing the ardor and firmness of the Southern militia, and not doubting but the militia of the several States in the Union possess equal motives for their exertions, equal spirit and activity, I cannot, said Mr. S., but rely on them as the natural and main support of our national independence—a support fully effectual without a recurrence to a standing army. These few cases, and it is stopping very short indeed of what the merits of the Southern militia deserve, tend to show that the charges brought against the militia generally are as unfounded as they are cruel to their feelings; while, at the same time, they demonstrate, that if an invasion (which is a contingency by no means likely to happen) should actually take place, we may rely with confidence on the manly exertions of the militia to meet the attack, and to resist every effort, at least for such a period as until more effective aid shall be drawn down to their support, and more permanent measures adopted.

The question for striking out twenty thousand to insert five thousand, was put and negatived—47 to 41.

The question now returned upon striking out twenty thousand to insert ten thousand.

Mr. N. SMITH hoped this amendment would not be agreed to. It was contemplated, when this reduction was proposed, that the power should be given to the PRESIDENT for three years; but it was now restricted to the recess of Congress. He did not himself think that at present there was any danger of an invasion, nor did he believe that imminent danger of an invasion would exist, whilst the war continued between France and England; but, whenever a peace shall take place between those two powers, the question ought then to be taken whether this country ought not immediately to go into preparations for war; and if Congress were not in session at the time, the PRESIDENT ought to have the power of determining this question. It will depend on several circumstances; on what kind of peace was made; upon what ground parties stood when peace was made; on the situation of France at the time; on what kind of men are in power; on the situation of this country; on what is the state of parties here at the time; what is the number of those who are opposed to the Government; how many there are of those who wish to lull the rest to sleep; and what is the amount of spies in the country. All these will be important considerations to be decided at the time, and if it shall then appear that imminent danger does exist, will twenty thousand men be too large a number to raise? He believed not.

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The question for striking out twenty thousand, and inserting ten thousand, was put and carried, 54 votes being in favor of it.

The question next came up on agreeing to the section proposed by the select committee, for authorizing the PRESIDENT, from time to time, as he shall deem it necessary, to call forth in rotation such portion, not exceeding at any one time the number of twenty thousand men, of the detachments of the United States, authorized by the act of the 24th of June last, as may be conveniently mustered together, and cause them to be trained and disciplined by their proper

officers, either in their respective States, or in one corps, to be drawn from two or more adjoining States, for a term not exceeding —; for which time the officers and men shall be considered as in actual service and be paid and governed accordingly.

After some discussion, in which constitutional objections were urged against this provision, the committee rose without taking a question upon it, and the House adjourned till Monday.

## **MONDAY, May 14.**

### ***Provisional Army.***

The House again resolved itself into a Committee of the Whole on the bill for authorizing the PRESIDENT OF THE UNITED STATES to raise a provisional army; when, the question being put on the section providing for the calling out 20,000 militia at a time, to be trained and disciplined, it was negatived, there being only 11 votes for it.

This section was objected to on the ground that the constitution has placed the training and disciplining of the militia in the several States, and that Congress had power only "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion; reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

Mr. SEWALL moved to fill the blank in this section with \$200,000. He supposed \$50,000 or \$60,000 would be sufficient for purchasing the accoutrements mentioned; the remaining \$140,000 or \$150,000 would be ready in the Treasury in case of emergency, for the other purposes of the act. This mode of proceeding was objected to. It was thought by some that it would be best to appropriate only for the purchase of the articles specified, and provide for the whole expense of carrying the act into effect in one sum, either in this law or some other; but it was finally carried as it stands, and the blank was filled with 200,000 dollars.

The last additional section proposed for exempting private soldiers from arrest for debt or contract, during their term of service, was then agreed to.

## **FRIDAY, May 18.**

### ***Call of the House.***

The SPEAKER informed the House that the hour was arrived at which a call of the House was ordered to be made, and that the clerk would accordingly proceed to the call.

The call was accordingly made, when it appeared that 92 members were present, which, with 13 members absent on leave, and 1 sick, made up the whole number of members.<sup>[33]</sup>

### ***Provisional Army.***

The bill authorizing the PRESIDENT OF THE UNITED STATES to raise a Provisional Army, was read the third time; when

Mr. McDOWELL moved to postpone the question on the passage of this bill till Tuesday next. Information had been received from Europe, and was entered on the Coffee-House books of this city, that our Commissioners had been received by the Executive Directory; and that the persons who had held authorized conversations with them on the subject of bribes, &c., were imprisoned. He could not say that this information was true; but, if it were, our differences with the French Republic may probably be amicably accommodated, and there may be no necessity to pass this bill at all. He hoped, therefore, the postponement would take place.

Mr. SEWALL should be sorry if a motion of this kind were to receive any attention from the House. If negotiations were opened with the French Republic, they might not very soon be concluded. What appearance would it have to the nations of Europe, if, after all the insults and injuries we have received from the French Republic, the moment Congress heard in an indirect, uncertain way, that they had deigned to receive our Ministers, they stopped their proceedings in all measures of defence. A more unfavorable appearance, in his opinion, could not take place. It ought to be recollected that the army proposed to be raised was a provisional army, and would not be raised, if the contingencies therein named, did not take place.

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The question for a postponement was put and negatived; there being only 29 votes for it.

The question on the passing of the bill was then taken, and stood—yeas 51, nays 40, as follows:

YEAS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, John Milledge, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark

Thomson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, William Findlay, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, Thompson J. Skinner, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

**MONDAY, May 21.**

***Presents to Ministers.***

Mr. BAYARD said, he had a resolution to offer to the House, which he trusted would meet with no opposition from any quarter. It was intended solely to explain the grounds upon which the House proceeded when they refused to consent that Mr. Pinckney should receive the presents usually made by foreign Courts to Ministers upon taking leave, and which had been offered to him by the Courts of London and Madrid. He had purposely avoided in the resolution any expression of approbation of the conduct of Mr. Pinckney during his missions, because he perfectly knew that no approbation of that House could add to the high sense the people of the United States already entertained of the integrity and talents of that gentleman; and because it did not belong to the occasion for the House to express any opinion as to the conduct of the gentleman during the time he was employed abroad. That the design of the resolution he had to submit, was simply to negative an implication which possibly might be made, that, as the constitution certainly did contemplate cases in which Ministers might be allowed to receive presents, the House were induced, by reasons connected with the conduct of this gentleman, to refuse the liberty to accept the presents; whereas he was perfectly satisfied, from the declarations of gentlemen who opposed the permission, who had all taken occasion to testify much esteem for the character and entire approbation of the conduct of Mr. Pinckney while in office, that their opposition arose from principles of general policy, which led them to think that, in no case should presents be allowed to be received. Nay, they had said, that the purity of this gentleman's character, and the importance of his services, furnished a happy opportunity of establishing an invariable rule precluding the acceptance of these presents, which no merit hereafter should induce the House to depart from. The subject, however, was of so delicate and tender a nature, that he conceived it a piece of justice on the part of the House to state explicitly the grounds upon which their decision was made, in order to preclude the possibility of any mistake as to their motives. He should rely, therefore, with perfect confidence, that the following resolution would be unanimously adopted:

*Resolved*, That this House, in refusing to allow Thomas Pinckney, late Minister at the Court of London, and Envoy Extraordinary to the Court of Madrid, to receive the presents usually made by the said Courts to foreign Ministers on taking leave, were induced to such refusal solely by motives of general policy, and not by any view personal to the said Thomas Pinckney.

Mr. GRISWOLD moved the postponement of this resolution till to-morrow.

The question on postponement was put and negatived—41 to 34.

The question on agreeing to the resolution then recurred—

Mr. SEWALL had some doubts as to the propriety of the determination of the general question, as he believed, by that determination, the House had parted with an advantage placed in them by the constitution. He thought the best way of settling this business would be to reconsider that question. He knew one gentleman who had voted upon it through mistake, and there might be several others in the same situation.

The question on agreeing to the resolution was put and carried unanimously.

***Naturalization Law.***

On motion of Mr. SEWALL, the House went into a Committee of the Whole on the bill supplementary to, and to amend the act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject.

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Mr. SEWALL moved to fill the blank specifying the length of time necessary for an alien to give notice of his intention to become a citizen, before he can be admitted, with "five years." Carried.

The blank declaring the length of time necessary for an alien to reside here before he can be admitted a citizen, Mr. S. moved to fill with "fourteen years."

Mr. McDOWELL hoped this blank would not be filled with so long a time. The residence now required from foreigners before they can become citizens is five years. He would not object to an increase of the length of this term to seven years; or, if the committee thought nine better, he would not object to it. He did not wish to discourage an emigration to this country of respectable

foreigners, by barring them from the rights of citizenship. The policy of this country had always been different, and he did not wish entirely to change it. When persons come here from foreign countries, it was our interest to attach them to us, and not always to look upon them as aliens and strangers.

The question for filling the blank with "fourteen," was put and carried—41 to 40.

Mr. SEWALL moved a clause providing that no alien who comes from a country at war with us, shall be admitted to citizenship while such war continues. Agreed to.

Mr. GALLATIN wished to know whether the provisions of this act are intended to extend to persons who were in this country previous to the passing of the law of January, 1795, which requires a residence of five years before an alien can become a citizen, but who have neglected to become citizens, as well as to all those aliens who have come to the country since January, 1795; although they may have made the declaration by that law required three years before they can become so, of their intention of becoming citizens of the United States. The law of January, 1795, had made an exception in favor of all aliens then in the country.

As the bill stands at present, Mr. G. said, it would have a retrospective effect on three descriptions of persons, viz: all those aliens who were in this country prior to the adoption of the present Constitution of the United States, and who were not naturalized under the State laws before the act of 1790; in the next place, it affects all those who, under the law of 1790, might have been naturalized, and all those who, under the law of 1795, might hereafter be naturalized, provided they have made the necessary declaration of their intention of becoming citizens. From the year 1795, many persons, with a view of making themselves citizens of this country as soon as the law would allow them, have renounced their allegiance to the countries from whence they came, and if this bill passes in its present form, they will for ten or twelve years to come be without citizenship in any country. He hoped, therefore, some exception would be made in favor of the descriptions of persons which he had named.

One reason which led him to mention this circumstance was, that there are a great number of persons in the State of Pennsylvania, and many in the district from whence he came, who, though they are not citizens of the United States, really believe they are. This mistake has arisen from (an error common to most of the districts of the United States) a belief that an alien's being naturalized by the laws of a State Government, since the act of 1790, made him a citizen of the United States. The Mayor of Philadelphia, till the year 1795, admitted citizens under the State law, who afterwards considered themselves as citizens of the United States. He always thought that construction to be wrong—Congress having the power to pass, and having passed an uniform naturalization law, which, in his opinion, excluded the idea of admission to citizenship on different terms by the individual States. But he knew the contrary opinion till lately generally prevailed. Indeed, he knew that at the late election in this city, the votes of respectable merchants, who had obtained American registers for their vessels, on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union. It may be said that, since the year 1795, these persons might have gone to any of the courts and have become citizens. In this city, and in others, he supposed persons had generally done so; but where people are two or three hundred miles distant from the District Court of the United States, they had not always an opportunity of doing it, especially on account of a construction of the act of 1795, which had prevailed in some counties of Pennsylvania, and which made it doubtful whether any court in the State out of the city, could administer the oath of citizenship. Mr. G. supposed that since the year 1790, from ten to fifteen thousand emigrants had come into the State of Pennsylvania, two-thirds of whom believed, till lately, that they were citizens of the United States, from their having been naturalized by the laws of that State. It has now been discovered that they are not citizens; but since that discovery was made, they have not had an opportunity of being admitted according to the law of the United States. If some limited period was given to these persons to come forward to be naturalized, and they did not become citizens in that time, he should be willing to exclude them. He thought, indeed, provision should be made for all these persons, but he would not move any amendment until he had heard the opinion of the committee on the subject. The amendment just adopted, for excluding their enemies from citizenship, would do away any objection which could be urged against a provision of this kind. Indeed, the persons he alluded to generally came from the territories of the King of Great Britain, and three-fourths of them from Ireland.

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Mr. SEWALL said, this subject was before the select committee, and it was the opinion of a majority of that committee that no exception ought to be made, but that the bill should pass in its present form. His own sentiments were decidedly against any alteration. As to the Irishmen whom the gentleman from Pennsylvania has mentioned, as they have neglected to avail themselves of the privilege of becoming citizens, he supposed they did not place any high value upon it. They are now permitted to hold lands; and from the present distracted state of the country from whence they have emigrated, he did not think it would be prudent to make them eligible to hold seats in the Government after a residence of five years. He believed the liberty which the United States have given in this respect heretofore has been unexampled, and it was high time the evils which had arisen from this imprudent liberality should be remedied. The present distracted state of the world, and the attempts made to disturb other governments, showed the necessity of the proposed regulations.

Mr. S. did not consider the persons who had been mentioned as laboring under any disadvantages. Considering what they have left, and what they receive here, their situation is vastly improved by the change which they have made, without giving them any chance of becoming members of our government, for they would have had little chance of becoming

members of the government which they have left. He did not suppose they came here with a view of getting into the government, but to acquire property, and to enjoy peace and happiness, and this they might do independent of citizenship. As he saw no good, therefore, to be derived to the country from admitting these persons to citizenship, but much danger, he hoped the bill would be agreed to as reported.

Mr. GALLATIN said, if the bill was proceeded with, he would prepare an amendment in favor of those classes of persons he had mentioned.

The bill was accordingly proceeded with; and coming to the fifth section, where it is provided, that if an alien shall continue to reside here, and shall refuse or neglect to make a report of his residence, and receive a certificate thereof, he shall forfeit two dollars, *and shall be liable to be arrested as a suspected person*—

Mr. GALLATIN moved to strike out the words printed in italic. It was sufficient, he said, that such a person should pay a fine. It was a new thing to punish a man by imprisonment, not for delinquency, but because he was suspected. A conduct of this kind had been highly condemned in another country, and he hoped it would not be adopted here.

Mr. SEWALL said, it was the intention of the committee to show the nature of the offence of omitting to make the proper report; to show that such omission would lay the citizens under the suspicion of not acting openly and candidly.

Mr. SITGREAVES remarked, that if his colleague's objection only went to the words "suspected person," his motion went too far.

The question was put and negatived—37 to 36.

Mr. GALLATIN then proposed an amendment to the following effect:

"Provided that any alien who was resident within the limits, and under the jurisdiction of the United States, before the 29th of January, 1795, and any alien who shall have made a declaration of his intention of becoming a citizen of the United States, in conformity to the provisions of an act establishing a uniform rule of naturalization, passed on that day, may be admitted to become citizens of the United States, according to the provisions of that act."

Mr. CRAIK was disposed to go much further than is proposed in this bill in restricting aliens from becoming citizens of this country. He should have no objection to say, that no foreigner coming into this country after this time, shall ever become a citizen; but he believed if this law was to have a retrospective operation on all those foreigners now residing within the United States, who have neglected to become citizens, it would be very unjust. There was a large class of persons, he said, in the country from which he came, who are not naturalized under any law, and many others who had been naturalized under the State law; about the legality of which, as had been stated, there is much doubt, though in Maryland and Virginia foreigners are still naturalized by the States, notwithstanding the law of the United States.

In deciding upon this question, Mr. C. said, it would not be proper to take into consideration emigrants from any particular country. Many of the persons he alluded to, are Germans, and well entitled to every privilege that can be given them, and whose neglect to become citizens was probably owing to their ignorance of our language and laws. He should, therefore, be in favor of this amendment, especially as far as it respects those aliens who were in this country before the year 1795.

Mr. BAYARD said, though foreigners were prevented from becoming citizens of the United States until they have resided fourteen years in the country, in many of the States, they are entitled not only to vote for filling the offices of the State Governments, but also for filling those of the United States. Therefore, the only privilege which they are denied, is the capacity of becoming members of the Federal Government; which was a denial, he thought, recommended by sound policy. And he did not see why the restriction should not extend to the aliens now within the United States, as to those who shall hereafter come here. If aliens residing here had any right to expect an exception, it must be on the ground of compact. He did not, however, consider naturalization laws in that light. Aliens cannot be considered as members of the society of the United States; our laws are passed on the ground of our own policy, and whatever is granted to aliens is a mere matter of favor; and, if it is taken away, they have no right to complain. Every principle of policy, in his opinion, required this regulation to be made general; for he believed there were as many Jacobins and vagabonds come into the United States during the last two years, as may come for ten years hence; so that these very persons against whom this law was intended to operate, will become citizens, and may be chosen into the government. He hoped, therefore, the amendment would not be adopted.

With respect to those persons who have given notice of their intention of renouncing their allegiance to the foreign country from whence they came (for they do not actually renounce it until they become citizens) it can make no difference to them, especially those referred to by the gentleman from Pennsylvania, because it is a principle of the British law, that British subjects have not a right to alienate themselves; they cannot renounce their allegiance to the British King. No objection, therefore, could be had against the measures being general on that ground.

Mr. MACON was apprehensive that gentlemen in their zeal to get at particular persons, will go too far in this business. He agreed with them, that, for three or four years past, people of all sorts of politics had come to this country, from the highest aristocrat to the greatest Jacobin; and he doubted not that persons who were very desirous of becoming citizens, or who had any particular

end to answer by it, had availed themselves of the law. But there are persons in distant parts of the Continent, who have never yet become citizens, perhaps from their not being in the way of going through the ceremony, and because they had no apprehension of the privilege being taken from them. Many had also omitted to do it from an ignorance of our language. He hoped, therefore, this amendment would be agreed to. If persons have given notice of their intention to become citizens, they have complied in part with the laws; and he did not think it would be right to put it out of their power to comply with the other part.

Mr. SEWALL said, this amendment would comprehend those aliens who have come here since the year 1795, though they may have made no declaration of their intention to become citizens, as they may make the declaration before the law passes. As to the other description of persons, he had not the same objection to them. He agreed with the gentleman from Delaware, that our regulations in this respect are made for our own convenience and safety, and that no alien has a right to complain, if these regulations should disappoint his expectations.

Mr. SITGREAVES said, this was either a question of right or expediency. He presumed no gentleman was prepared to say any alien had acquired an absolute and positive right in this country to citizenship at any particular time. If not, it was a mere matter of expediency; and, when it is considered in this light, there can be little difficulty in seeing the danger and disadvantages which would arise from allowing foreigners to become citizens, as heretofore, or as proposed by the present amendment. They are too evident to be enumerated.

But it was supposed that there were a large number of individuals in this country entitled to citizenship by the law of 1790, but who have, nevertheless, neglected to become citizens. It was a little extraordinary, he said, if this were so; that persons should for so long a time have neglected to embrace a right which, it is now represented, it would be doing them great injury to deprive them of. As to those persons who came into the country since the law of 1795, he saw no good reason for making an exception in their favor. As policy, safety, and security, dictated the measure, he hoped the bill would be passed as reported.

Mr. W. CLAIBORNE said he could not reconcile it to his feelings to vote for the bill without the amendment proposed by the gentleman from Pennsylvania, because it would be doing a number of people whom he represented the greatest injustice. Those people, he said, were peculiarly situated. It was only at the last winter session that the State of Tennessee was represented on this floor; and, at the time of passing the naturalization law, the people of that country were not in a situation to receive information of what was done in Congress. It need not be a matter of surprise, therefore, if, in that frontier country, there are many persons aliens who did not take advantage of the law of 1790. There are numbers of such who have given the strongest proofs of attachment to the country; they have fought and bled in the service of the United States, and are as much wedded to the Government of the United States as any man born on American soil. If this amendment does not prevail, it will affect many valuable citizens of the State of Tennessee who were citizens in the year 1795, and ten years before that time. These persons would be deprived of rights, because they were living in a country in which there was no post road, and where, of course, they had no newspapers to give them information of what was going on at the seat of Government. He hoped, therefore, it would not be agreed to.

Mr. J. WILLIAMS hoped this provision would be agreed to. When an act is passed, good reasons, he said, ought to be given before any change takes place. Many persons had come into this country from an expectation of being naturalized at the end of a certain period; but, if this provision is not agreed to, the system will be entirely changed. He saw no difficulty which could arise from agreeing to this provision, as persons from countries at war with this country could not be made citizens at all. He knew a number of persons who had not taken advantage of the naturalization law, who perhaps are as good men as any in the United States. It was true, he said, that by the laws of the several States aliens are allowed to hold land; but when foreigners come here to reside, and behave well, he did not see why they ought to be prevented from becoming citizens. They contribute their share of the expense of government, and it was an acknowledged principle that representation and taxation ought to go together; which would not be the case if the bill was passed without this amendment.

The question was put and carried, there being 52 votes for it.

The committee then rose, and the House proceeded to take up the amendments.

The amendment of Mr. GALLATIN coming again under consideration,

Mr. COIT hoped that part of the clause would be disagreed to which embraces persons who were in this country before the year 1795, but who had never shown any disposition to become citizens. Those who came since, and had given notice of their intention of becoming citizens, stand on very different ground. He should have no objection to the latter being accepted, in the way proposed, but not the former.

After a few observations on this amendment, it was negatived—49 to 32.

Mr. SITGREAVES proposed an amendment, limiting the time within which aliens, included in Mr. GALLATIN'S proposition, should be permitted to avail themselves of the exception in their favor, viz: those who were in this country before the year 1795, within one year after the passing of this act; and those who have come here since, and given notice of their intention to become citizens, within four years from the time of such notice having been given.

The question was first put on the former part of the amendment.

Mr. T. CLAIBORNE did not wish to punish men for not being born here, but to punish both natives



and foreigners when guilty. He hoped two years would be allowed instead of one.

The question on two years was put and negatived—31 to 39. It was then put on one, and carried—57 votes being for it.

The question on the second part of the amendment was then put.

Mr. VARNUM said, the impulse of the moment led members to believe that these restrictions upon foreigners were necessary. He thought there was no necessity for any measures being taken with respect to foreigners, except as belong to the nation with whom we expect to be at war; yet, he had no particular objection to restrictions being made with respect to such foreigners as shall hereafter come to this country; but, having heretofore held out inducements to foreigners to come to this country, and when they are come, with an expectation of becoming entitled to the rights of citizens in a certain time, he would not disappoint those expectations.

Mr. T. CLAIBORNE said, this was a very important bill, and he should wish a little more time to consider on it; he therefore moved an adjournment.

The motion was put and negatived, there being only 15 votes for it.

Mr. SITGREAVES said, the observation of the gentleman from Massachusetts could only be applicable when the principle of the bill was under consideration; whereas, the present proposition only went to limit the period within which advantage should be taken of the indulgence proposed to be allowed.

Mr. VARNUM moved a division of the amendment, and proposed to allow till the 1st of September next for persons to make a declaration of their intention to become citizens.

This motion was not seconded; and the question on the amendment was put and carried—47 to 31.

The bill was then ordered to be read a third time to-morrow.

## TUESDAY, May 22.

### *Alien Enemies.*

On motion of Mr. SEWALL, the House went into a Committee of the Whole on the bill respecting alien enemies, Mr. DENT in the chair; when the bill was read as follows:

SEC. 1. *Be it enacted, &c.*, That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion, or predatory incursion, shall be perpetrated, attempted, or threatened, against the territory of the United States, by any foreign nation or government, and the PRESIDENT OF THE UNITED STATES shall make public proclamation of the event, all natives, denizens, citizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed, as alien enemies; and shall be further subject, with their goods and effects, to a just retaliation of any unusual severities, restraints, and confiscations, which shall be suffered by the citizens of the United States, resident within the territory of the hostile nation or government, and inflicted by their authority, previous to, or at the commencement of, any war or rupture as aforesaid, under color or pretence thereof. And the PRESIDENT OF THE UNITED STATES shall be, and he is hereby, authorized, in any event as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom, and to establish any other regulations which shall be found necessary in the premises, and for the public safety, subject, nevertheless, to the regulations which the Congress of the United States shall thereafter agree and establish.

[The second section allows to any alien enemy who shall not be chargeable with actual hostility, all the time for the disposal of his effects, and his removal from the country, which any treaty with his nation may stipulate; and the third commits the execution of the act in relation to all persons comprehended in the PRESIDENT'S Proclamation, and to all who shall harbor them, to all the judicial and ministerial officers of the Federal and State Governments.]

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The two first sections having been read, without motion for amendment,

Mr. LYON moved to strike out the word "harbor," in the third section, which was negatived.

Mr. MACON thought the third section gave the PRESIDENT a very extraordinary power; it seemed that his proclamation, in all cases, was to be considered as law. He wished the chairman of the committee, who reported the bill, to give some information on the subject.

Mr. SEWALL said, the gentleman from North Carolina seemed to suppose that this was a general power placed in the hands of the PRESIDENT, whereas his power is confined by the first section of the bill. This power, Mr. S. said, must be placed somewhere, and he believed it could not be

better placed than in the PRESIDENT.

Mr. LYON saw no ground for the first section of the bill, except it was to restrain the property of aliens to make satisfaction for the injuries done to our own citizens; nor should he be willing to give a power to the PRESIDENT which might enable him to distress innocent persons. He moved, therefore, to strike out the words "or threatened," in the first section, as he considered these words too vague to authorize the exercise of so great a power as was here given.

Mr. MACON seconded the motion.

The question was put and negatived, 44 to 39.

Mr. HARPER moved to strike out the words "predatory incursion," in the first section. The power, he said, was a very extensive one, and he did not think it ought to be given except in cases of serious attack; but, after a few words in opposition to it by Mr. SEWALL, and in favor of it by Mr. McDOWELL, he withdrew his motion, alleging that he had not rightly understood the section.

Mr. BAYARD said, the last section of this bill contained a principle contrary to all our maxims of jurisprudence, viz: to provide punishment for a crime by a law to be passed after the fact is committed. Whether the crime to be punished is to amount to treason, misprision of treason, or be only a misdemeanor, is left uncertain. It was his opinion that laws could not be too definite; but it would be impossible in this case for the person committed to know what crime he had committed, or to what punishment he was liable. In order to get rid of this difficulty, he moved to strike out all the words after the word "aforesaid," at the conclusion of the last section, and to insert in lieu thereof the following words, viz: "shall be guilty of a misdemeanor, and subject to a fine not exceeding — dollars, and be imprisoned not exceeding — months."

Mr. SEWALL acknowledged there was a good deal of uncertainty in that part of the bill moved to be struck out; but the select committee did not see any way of remedying the evil without making the law too mild in its operation. In some cases, the offence would amount to high treason, the punishment for which is death; in others, to misprision of treason, the punishment for which is imprisonment not exceeding seven years, and a fine not exceeding one thousand dollars. As the offence might, therefore, sometimes amount to high treason, there would be an impropriety in making it uniformly a misdemeanor.

If an alien should have resided here for a number of years, and he should turn out to have been a spy, and a citizen of the United States should have harbored and concealed the said alien, knowing him to have been a spy, he would be chargeable with high treason for aiding and abetting the enemies of the United States within its territory, or at least a misprision of treason.

But the gentleman from Delaware was mistaken in his idea that it was intended to try an offender by a law passed after the offence was committed. By the expression, "as by law is or shall be declared," was only meant such law as should be passed between the present time and the time of committing any offence.

The question on this amendment was put and carried, 44 to 25.

On motion of Mr. BAYARD, the blank for containing the amount of the penalty, in the amendment just carried, was filled with one thousand dollars.

The committee rose, and reported the amendments; which having been agreed to,

Mr. DENT moved to strike out the word "months," in Mr. BAYARD'S amendment, in order to insert "seven years."

Mr. N. SMITH hoped this amendment would not be agreed to. He believed the penalty might, in some cases, be too severe, and in others by far too mild. He thought the bill stood well as it was. He did not think there was any uncertainty in it but what arose from the different species of offence which were comprised within this provision—for a person under it might be guilty of the highest crime, or of no crime at all, according to the circumstances of the case. This being the condition of things, to make an uniform punishment for all cases, whether highly criminal, or no crime at all, cannot be proper.

The bill as it stands, without the amendment, provides that offenders shall be imprisoned and punished according to the law which is or shall be made, (before the offence is committed,) and he thought this was the proper footing, as the punishment would then be apportioned according to the offence.

Mr. BAYARD hoped the amendment would be agreed to. He did not know that a greater misfortune could happen to any man than to live in a country where the laws are so indefinite that a person cannot ascertain when he commits an offence, or what is the penalty of an offence when it is committed. The gentlemen from Massachusetts and Connecticut tell the House about the aggravation of the offence. What was the aggravation they allude to they have not stated, and no gentleman could form an opinion upon the subject. The fact was of a definite nature, and a definite punishment ought to be made for it. What is the fact? It is the harboring and concealing of an alien enemy after the proclamation of the PRESIDENT. Gentlemen say this offence may amount to treason, misprision of treason, or other offence. If the offence could amount to treason, he owned he did not understand the bill, because the crime of treason is defined by the constitution, and could not be varied by any law of Congress. If, then, the fact amount to treason, it will not be included in this law. If gentlemen wished to punish persons in exact conformity to their degree of offence, they ought to prepare a scale of offence for that purpose. If not, the amendment agreed to in Committee of the Whole, ought, in his opinion, to be concurred in.

Mr. SEWALL said, this bill aimed at one thing, and the gentleman from Delaware at another. The

bill has in itself a definition of the offence. It has declared certain circumstances which shall put a person in a situation in which he shall answer for his conduct. It declares that a person harboring an alien enemy shall be a suspected person; but the crime and punishment must be ascertained by other laws; and by these offenders are to be punished agreeably to their offences, whether they be great or small.

Mr. GALLATIN said, if he understood the gentleman from Massachusetts, it was not the object of this bill to define the nature of the offence of which a person shall be guilty, or the punishment for it, for harboring and concealing an alien enemy, but only that certain circumstances should render a man a suspected person. This to him was altogether a new legislation.

If he understood the bill as it stood rightly, a person may be apprehended and imprisoned on account of his having harbored and concealed alien enemies; yet the gentleman from Massachusetts says this is in itself no crime; for, if it were a crime, it ought to be punished in the way proposed by the gentleman from Delaware, but he states it to be only a sufficient ground of suspicion. This Mr. G. said, was not only contrary to every principle of justice and reason, but to the provisions of the constitution. The constitution says, "that no person shall be deprived of life, limb, or property, without due process of law." But here certain persons may be deprived of their liberty without any process of law, or being guilty of any crime. Yet the gentleman from Massachusetts says, that this bill does not define a crime or award a punishment. But, Mr. G. said, this assertion was not correct; for there was a new crime instituted, which was that of being a suspected person, and the overt act which is to be evidence of that crime, is the harboring and concealing of an alien enemy, and the punishment is to be apprehension and imprisonment until it shall be found what law the prisoner has offended.

Mr. G. said he was ready to acknowledge that where a man commits an offence, he ought to be punished; but he could not consent to punish any man on suspicion merely. He therefore moved to recommit the bill. He did this because he thought the whole of the bill vague in its nature. He wished it to be more in detail, and that the offences to be punished should be defined; for it was remarkable that every section of the bill concluded with these singular words: "subject nevertheless to the regulations which the Congress of the United States shall thereafter agree and establish." So that instead of deciding what the law should be, it gives the PRESIDENT the power of saying what it is; subject to the after regulations of Congress. He wished now to make the law to declare what the offence should be, and what the punishment, and not leave it to the PRESIDENT to make what regulations he shall think proper. If not, the whole of the bill might as well be in two or three words, viz: "The PRESIDENT OF THE UNITED STATES shall have the power to remove, restrict, or confine alien enemies and citizens whom he may consider as suspected persons." When Congress attempted to legislate, they ought not to do it in this way. When the resolution was agreed to, authorizing this bill to be reported, he expected the committee would have defined the nature of offences and their punishments, and not reported the bill in the vague way in which it is before the House, especially as this appears not to be meant for a temporary, but a permanent law.

If gentlemen examine the third section of the bill, it will be found that all Judges, Justices, Marshals, Sheriffs, and other officers, and all the good people of the United States, are bound to do, what? Not to execute any law; but to carry into effect any proclamation, or other public act of the PRESIDENT. So that instead of the Judicial, and any other officers of the United States, and the people at large, being obedient to the laws, they are to be obedient to the will of the PRESIDENT.

The last clause of the bill, which does not relate to aliens, but to our own citizens, is very objectionable. It is in the shape of a penal law, and the crime it defines is the harboring and concealing of alien enemies. Now it is said, that this crime may amount to high treason, by its being construed that an offender has adhered to the enemies of the United States, knowing them to be such, or it may be no offence at all. But the provision is general; and a man guilty of no offence is liable to be apprehended and imprisoned equally with the highest offender under this law.

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Upon the whole, it was evident, Mr. G. said, that this bill wants detail, as what is left general and ambiguous, ought to be clearly defined. He hoped, therefore, the bill would be recommitted.

Mr. SEWALL said, that the gentleman from Pennsylvania, in order to bring forward this motion, has shut his eyes to the intention of the bill. He says it is a bill for punishing crimes which are not defined. He never knew that alien enemies were guilty of an offence merely as such. It is a bill to provide for the public safety in certain cases. In the event of a war with France, all her citizens here will become alien enemies, but neither this bill, nor common sense, would consider them as offenders. They may be offenders, but not because they are alien enemies; nevertheless it is necessary to provide for the public safety, and in all countries there is a power lodged somewhere for taking measures of this kind. In this country, this power is not lodged wholly in the Executive; it is in Congress. Perhaps, if war was declared, the PRESIDENT might then, as Commander-in-chief, exercise a military power over these people; but it would be best to settle these regulations by civil process. They would be regulated by the treaties as well as by the laws of nations. The intention of this bill is to give the PRESIDENT the power of judging what is proper to be done, and to limit his authority in the way proposed by this bill. In many cases, it would be unnecessary to remove or restrict aliens of this description; and he believed it would be impossible for Congress to describe the cases in which aliens or citizens ought to be punished, or not; but the PRESIDENT would be able to determine this matter by his proclamation. If, however, gentlemen could point out any way in which the necessary regulations could be detailed, he should have no particular objection to it, though he thought the bill stood very well as it was.

Mr. OTIS.—In considering this subject, the only practicable modes, he said, which present themselves, are three. To provide for the removing or otherwise restricting all alien enemies without distinction, or to specify some overt acts for committing of which they shall be liable to be removed or restricted, or else to leave the power with the PRESIDENT to take such steps respecting them as he shall think proper and necessary for the public safety.

Mr. O. inquired if the House was ready to do the first? He thought not. He had no doubt there might be French citizens resident here who were entitled to protection, who meant to become good subjects, and who ought not to be exposed to any inconvenience or penalty whatever. He believed very few gentlemen are of opinion that it would be proper to treat all alien enemies in the same way. The operation of such a measure would be unjust. Will gentlemen think it right, then, to declare that alien enemies shall only be removed, or otherwise restricted, on conviction of some overt act to be specified in the act? They are at present liable, with all other persons, to be punished for crimes; so that a regulation with this view would be unnecessary. But there may be cases where the conduct of such persons being extremely suspicious, they ought to be taken into custody, though no positive crime could be proved. Suppose a French army were to land in this country, some of these persons might show a disposition, which would warrant their imprisonment; and yet he did not know how such dispositions could be defined in this bill.

Mr. O. believed, therefore, that it would be best to vest a discretionary power in the Executive to secure and take care that these men should do no injury. And this could not be looked upon as a dangerous or exorbitant power, since the PRESIDENT would have the power, the moment war was declared, to apprehend the whole of these people as enemies, and make them prisoners of war. And in case of a predatory incursion, made on this country, there might be as much reason for securing some of them as in case of actual war or invasion. So that this bill ought rather to be considered as an amelioration or modification of those powers which the PRESIDENT already possesses, as Commander-in-chief, and which the martial law would prove more rigorous than those proposed by this new regulation. Unless gentlemen were disposed to interfere, to suffer those men to go at large, and to carry on a correspondence with their countrymen and our enemy; unless they will consent to suffer a band of spies to be spread through the country, from one end of it to the other, who, in case of the introduction of an enemy into our country, may join them in their attack upon us, and in their plunder of our property, nothing short of the bill like the present can be effectual.

He was willing to say, that in a time of tranquillity, he should not desire to put a power like this into the hands of the Executive; but, in a time of war, the citizens of France ought to be considered and treated and watched in a very different manner from citizens of our own country.

As to the objection made by the gentleman from Pennsylvania, that the bill provides a punishment for suspected persons, and that the word suspected was indefinite, Mr. O. asked whether men are not usually arrested on suspicion? When information is lodged against a man for committing an offence, he is suspected of being guilty, and imprisoned until he can be examined.

Mr. O. believed, that, to provide for this detention of the person, was all Congress could now do. If the bill was recommitted, he did not think any definite provision could be made. It was necessary the PRESIDENT should have the power of judging in this case, and that punishment ought not to depend upon the slow operations of a trial. Though possessed of this power, the PRESIDENT would doubtless suffer all such persons to remain in this country as demeaned themselves peaceably; but when they discovered a contrary spirit, he would treat them accordingly.

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Mr. GALLATIN withdrew his motion for committing the whole bill, and moved to commit the third section of it. His arguments, he said, went wholly against that; and gentlemen, in reply to him, had chosen to direct their observations to other parts of the bill. As he did not wish his object to be misunderstood, he would only move for a recommitment of the third section of the bill, as his objections to the other parts of it were immaterial when compared with this.

After a few words from Mr. OTIS, Mr. MACON renewed his motion for recommitting the whole bill, which was negatived—37 to 36.

Mr. GALLATIN then renewed his motion for recommitting the third section, which was negatived by the casting vote of the Speaker, there being thirty-eight votes for it, and thirty-eight votes against it.

Mr. LYON renewed his motion to strike out the words "or threatened," in the first section. He thought this too indefinite an expression upon which to rest so important a power as was given to the PRESIDENT by this bill. Where the liberty and happiness of thousands of people are concerned, he wished they might depend upon something more certain. Gentlemen who advocate this bill, he said, spoke as if all power was to be placed in the PRESIDENT, and Congress were never to sit again. He wished this expression to be stricken out, and if, when Congress met again, they found the PRESIDENT had not power enough, they might give him more. He called for the yeas and nays upon his motion.

The question for taking the yeas and nays was put, but less than one-fifth of the members present rising in its favor, it was not carried. The question was then put on the motion, and it was negatived without a division.

Mr. GALLATIN supposed, if these regulations were established, it would be proper that permits should be granted to such aliens as the PRESIDENT should suffer to remain in the United States. He was not immediately prepared to introduce a proper amendment for that purpose; but he would move to add a few words in that part of the bill where it is proposed to punish citizens for

harboring aliens, to try the question. He did not very well understand the phrase, "liable as an enemy," by which those aliens were defined, and whom it would be criminal by this law to harbor; but he would move to introduce the words, "who shall not have obtained permission, under the authority of the PRESIDENT OF THE UNITED STATES to remain within the territory of the United States." He moved this, in order that citizens might not be entrapped by this law, but that they should know precisely to what description of aliens they might give a night's lodging, without being liable to be arrested as suspected persons.

Mr. BAYARD did not think this amendment necessary, as a citizen must harbor and *conceal* an alien to be guilty of any offence.

And the question was put and negatived—38 to 33.

The bill was ordered to be engrossed for a third reading to-morrow.

### WEDNESDAY, May 23.

#### *Alien Enemies.*

The bill respecting alien enemies was read the third time, when

Mr. R. WILLIAMS moved a recommitment of the bill. He said his objections did not lie so much against the provisions respecting aliens, as to the power proposed to be given to the PRESIDENT of issuing proclamations, which are to be binding on the Judges and other officers with respect to our own citizens. He would wish to designate every offence, and its adequate punishment, as far as it could be done. In order to effect this he made his motion.

Mr. SEWALL said, so much discussion took place on this subject yesterday, that he did not expect any more to-day. The gentleman from North Carolina seemed not to object to the powers given to the PRESIDENT by the first and second sections of the bill, but he did not wish him to have any officers to execute his powers. If the PRESIDENT could carry the law into effect with his own hand, he might do so, but he objected to his having any aid from his officers or the people at large. He did not believe this kind of reasoning could have any effect in this House. If the PRESIDENT is authorized to issue orders, he must be authorized to require the aid of proper persons to execute them.

Mr. GALLATIN called for the yeas and nays upon this question, which, being agreed to, he hoped this bill would be recommitted. He had no doubt that the committee, by paying due attention to the subject, instead of this general and vague bill, might report such rules and regulations as would be proper to be adopted on this occasion. He recollected seeing a bill from the Senate on this subject, in which something of this kind was done; and though he did by no means approve of that bill, yet it showed that the thing was not impossible. The objection made against a recommitment of this bill, was, that it was necessary to do something to provide means for securing and removing alien enemies, which did not apply as an argument against the recommitment of the bill. It was a good reason why a bill should be passed, but no reason why it should pass in its present form. The present bill, Mr. G. said, was grounded upon the principle that the PRESIDENT OF THE UNITED STATES shall have the power to do by proclamation what ought only to be done by law.

In the first place, the Proclamation of the PRESIDENT is to determine the period when foreigners not naturalized shall be liable to be apprehended, restrained, secured, and removed as alien enemies. Mr. G. understood what was meant by apprehending alien enemies, and securing them, but he did not understand the word "restraining;" it was vague, he said, in its nature, and he did not know that it was a legal phrase. The committee could themselves explain it. By the bill from the Senate, it was intended to confine them within the place where they reside; perhaps this was their idea. The bill goes further: they are not only liable to be apprehended, restrained, secured, and removed, but "to be subject, with their goods and effects, to a just retaliation of any unusual severities, restraints, and confiscations, which shall be suffered by the citizens of the United States resident within the territory of the hostile nation or Government, and inflicted by their authority."

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Mr. G. wished to have explained what was meant by "unusual severities." They must mean something more than confiscations—than apprehending, restraining, or removing—because they are specifically provided for. He wished, therefore, to know what these unusual severities were which, upon our own ideas of Government, we could retaliate? If any other severities besides those which are here enumerated were to be inflicted upon our citizens in France, he thought it would be disgraceful to that country, and he could not believe that either propriety or justice would warrant us committing a disgraceful act against the citizens of another nation, because that nation had committed a disgraceful act upon our citizens in their country.

[Mr. SEWALL rose to explain, but the SPEAKER said, the rule which declares no member shall speak more than once to a question would not permit him.]

Mr. G. did not know whether these words "unusual severities" were not intended to be held *in terrorem* over the conduct of France. If so, he did not think it a very creditable proceeding. But he believed that part of the bill perfectly useless, for two reasons: First, it is extremely doubtful whether the PRESIDENT OF THE UNITED STATES could constitutionally exercise those "unusual severities," which this bill says he may exercise; and with respect to confiscation, it was explained by a subsequent part of the bill to be only a sequestration till the next meeting of Congress, and he therefore conceived this part of the bill to be of no use, except to train our code of law in a manner expressly contrary to the spirit of our constitution, which expressly declares

no "cruel or unusual punishments" shall be inflicted.

But, supposing the words only held out *in terrorem*, he wished to know how they would apply, whether it was to make a part of our permanent law, whether it is suited for the present time only. If it were not to make a part of our permanent system—and he thought no gentleman would say it ought—then it must be on account of our present situation. As to our present situation, in relation to any thing which may befall our citizens in France, he would say the words are useless, and this for a plain reason; for, out of the natives of France in this country, ninety-nine out of an hundred are of that description of persons whom the French call emigrants, and it is therefore perfectly immaterial to the French nation how they are treated; so that the bill could operate only on a dozen or two of persons of a different description who may be in this country.

In the next place, with respect to confiscations, which by the next clause are so limited as to become sequestrations, it would be wrong to give this power to the PRESIDENT. An article is inserted in the British Treaty expressly to declare that sequestrations are impolitic and unjust in every case, and providing against them. He admitted that it might be necessary to resort to them on some occasions, because he believed there might be cases where sequestration would be necessary, by way of indemnification; but what he insisted on was, that it ought to be done by law, and not by the PRESIDENT. On a former occasion, when the question of sequestration was before Congress, the power was not proposed to be left at large with the PRESIDENT, but was to be regulated by law.

There was another circumstance which showed how easy a thing it would be to pass a law themselves, instead of leaving every regulation relative to this subject with the PRESIDENT. About the middle of the second section it is said, "where no treaty exists, a reasonable time shall be allowed, which shall be ascertained and declared by the PRESIDENT, or by the Congress of the United States." This was a kind of double legislation which was new to him. He wished to know what difficulty there would have been in defining the time here referred to in this bill? It appeared to him the right and proper time to do it. From the moment that the resolution came before the House, he was ready to acknowledge that the power of regulating this business was in the power of Government, as it was a power possessed by every nation, which it had a right to exercise for its own security; but it ought to be exercised according to law. In some countries, indeed, this power is vested in the Executive. In France, he believed, it was wholly so, and in England in a great degree; but in this country he trusted that this House would be of opinion that Congress is the proper body to regulate so important a measure.

But the evil, Mr. G. said, did not stop here, it extended to all the citizens of the United States. The object of the last section provides that justices, judges, marshals, sheriffs, and the people at large shall perform a duty which is undefined. But the gentleman from Massachusetts says this is right, because the power given to the Executive by this bill is also undefined. This is the foundation of all the objection made to this bill; it is to the want of legislation in it, which leaves not only alien enemies, but citizens of the United States, to the will of the PRESIDENT.

But he would go farther, and say it is impossible to define the duties of our own citizens, though the two first sections of the bill should be left at large as they are. By the present bill, the duties of justices, &c., are to be regulated by the Proclamation of the PRESIDENT. He could conceive that the House might take into consideration the nature of the powers vested in the PRESIDENT, and inquire what will be the duties required to be performed by the several officers of the Government to carry into effect those powers. Those powers are to apprehend, restrain, secure, and remove alien enemies, and to sequester their property. As to the removal of aliens, he could not see what justices and judges had to do with it; but if they had any thing to do with it, Congress ought to say what. They might say what should be the duties of judges or justices, or of Executive officers in the several cases which may be likely to occur, instead of leaving the thing wholly at large.

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The last part of the 3d section, he said, was as objectionable as any other. It defines the crime in two words, "harboring and concealing," and the penalty, if found guilty of this vague and uncertain charge, is imprisonment not exceeding seven years, and a fine not exceeding one thousand dollars. So that if a person be found guilty of harboring and concealing an alien enemy, however trifling the expense may be, his punishment will be left wholly to the discretion of the court. The only power of the jury will be to decide on the fact; and if a citizen has harbored for one night, however undesignedly, an alien enemy, he must be found guilty, leaving it altogether to the court to judge of the criminality of the act, and to affix the degree of punishment. He thought this part of the law ought to be better defined. It ought to distinguish between cases of misdemeanor and those which might arise from ignorance, and in which no offence at all might exist. He hoped, therefore, the bill would be recommitted.

The question on recommitting the bill was put and carried—46 to 44. The yeas and nays were as follow,

YEAS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Stephen Bullock, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, George Dent, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, James Machir, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, John Read, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van

Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

Mr. SEWALL, Mr. DANA, Mr. IMLAY, Mr. S. SMITH, Mr. JOSIAH PARKER, Mr. BROOKS, and Mr. RUTLEDGE, composed the committee.

**FRIDAY, May 25.**

***Instructions to Armed Vessels.***

Mr. SEWALL, from the Committee for the Protection of Commerce and the Defence of the Country, to whom was referred Mr. SITGREAVES' resolutions for instructing the commanders of our public and private armed vessels, and also the bill from the Senate for the further protection of the commerce and coast of the United States, reported it as the opinion of that committee that the bill from the Senate ought to be agreed to by the House.

The report was twice read, and ordered to be committed to a Committee of the Whole.

On the SPEAKER'S asking for what day this bill should be made the order, Monday, to-morrow, and to-day, were named.

The question was first taken on Monday, and negatived—43 to 37.

The question was then put upon to-morrow.

Mr. GALLATIN hoped this bill would be made the order for to-morrow, as the bill had only been printed this morning, and the report but this moment made. It would be a very extraordinary proceeding to make this very important bill the order for this day.

Mr. J. WILLIAMS said, this was a very extraordinary case. When we learn every day that our vessels are taken by the French cruisers, without any cause whatever, it is necessary to act with decision. This day had been spent on a very trifling business compared with this, and he hoped the House would sit until this bill was gone through.

Mr. McDOWELL hoped this bill would be made the order for to-morrow, as it had only been laid upon the table this morning, and few gentlemen had yet turned their attention to it. Besides, the usual hour of adjournment is arrived, and he hoped gentlemen would not insist upon hurrying so important a bill through the House in this manner. The gentleman from New York remarked that the House had been engaged in trifling business all the day; but, he observed that gentleman sat very contentedly under the discussion, though he now seems so desirous of expediting this business.

Mr. SEWALL was impressed with the necessity of passing this bill as soon as possible. If the committee had thought they might with propriety have taken time to deliberate upon this subject, they would not have made this report, but have taken into consideration the resolution which had been referred to them with this bill; but finding it necessary that our armed vessels should receive their instructions immediately, that they may go out and take the vessels on the coast, or drive them off, they made this report, intending hereafter to report farther upon the subject. But the present measures they thought necessary, from the peculiarity of our present situation; the dangers attending which the people without seemed to be fully persuaded of. And as this subject had been fully discussed on the resolutions which had been before the House, he hoped the bill would be immediately taken up; as he wished to provide without delay for the defence of our coast as far as our force would permit.

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Mr. MACON said, it was very extraordinary indeed, that gentlemen should wish to hurry this bill through the House in the way proposed. It appeared as if they were afraid of any thing coming from our Commissioners before they got the country in war. Being now the usual hour of adjournment, it could not be expected that if the House went into this bill, that any debate could take place. Indeed, gentlemen seemed to wish to prevent debate as much as possible; a few days ago, they had got a rule passed that no person should speak more than once to any question, and now by moving to go into a Committee of the Whole, at the hour of adjournment, they wish to prevent them from speaking once, and that upon a bill which will certainly place the country in a state of war. He thought a regard to decency ought to prevent gentlemen from pushing this motion.

Mr. LYON called upon gentlemen to consider the importance of this bill. He considered it as a declaration of war as it now stands, and he hoped time would be given to consider whether some amendment could not be introduced into it, so as to prevent its being so considered. At present, he believed, it was directly in the face of the laws of nations. He was desirous of avoiding war if possible. His constituents also wished it. He had received at least two hundred letters requesting him to do all in his power to prevent it. Indeed, he was afraid of the consequences of war; he was

afraid it might produce even a dissolution of the present Government.

Mr. BRENT was proceeding to express his astonishment at the conduct of gentlemen in wishing to press so important a subject upon the House, while members were impatient to adjourn, when,

Mr. SEWALL rose and withdrew His motion, and the bill was made the order of the day for tomorrow.

## SATURDAY, May 26.

### *Protection of Commerce.*

Mr. SEWALL called for the order of the day on the bill from the Senate for the more effectual protection of the commerce and coasts of the United States; and the House accordingly resolved itself into a Committee of the Whole on the said bill, Mr. DENT in the chair. The bill having been read,<sup>[34]</sup>

Mr. MACON rose and observed, that he wished to amend both the bill and the preamble to it, and desired the Chairman to say which it would be in order to move first. The Chairman having answered that it would be most regular first to amend the bill, and then the preamble could be made conformable to it, Mr. MACON moved to strike out the word "such," in the enacting clause (the effect of which was to make the instructions given to the commanders of our vessels general against all cruisers, as well as against the French.) His reason for making the motion was, that if this bill must pass, it might be general against all nations who commit depredations upon our commerce, for it was a fact well known that France is not the only nation which does this. It was his opinion, that before any measure of this kind was taken, we ought to know the result of our mission in France; for, however slender our expectations of an accommodation may be, still those expectations ought not to be abandoned, until we are certain our Commissioners have left Paris, without being able to accomplish their mission.

Mr. M. believed it could not be doubted by any one, that, if we had thought a state of war preferable to the state in which we had been placed for some time back, we had had sufficient provocation from more than one nation to have declared war long ago. Indeed he looked upon this bill as a declaration of war in substance; he saw that this was the situation to which measures were progressing, but he could not have expected that gentlemen would have proposed a measure of this kind whilst our Commissioners were yet in Paris. It was his opinion, however, that, disagreeable as our present situation may be, it is much preferable to a state of war; for, notwithstanding all the losses which our merchants have sustained, our trade and our revenue are continually increasing.

In the part of the country from whence he came, Mr. M. said, the price of produce is now higher than it has been for some time past. But, in the case of war, it would fall, of course.

Notwithstanding all the evils which he was sensible must attend on a state of war, when he found our Commissioners had left France, and no hope of accommodation remained, he should not hesitate to join gentlemen in any measures which shall be necessary to meet a state of war.

Mr. McDOWELL said, the gentleman from South Carolina had dwelt much upon the inconsistency of the present motion. He himself could not see any in it. He had insinuated that the mover and seconder of it must be blinded by prejudice and governed by passion; that, instead of going to war with one nation, it would be going to war with three, and that before we remonstrate with them, or request them to desist from their practices; that we have been attempting to get redress from France for eighteen months past without effect, but that no attempt has been made to negotiate with England or Spain on the subject of their depredations. In this the gentleman from South Carolina was certainly mistaken. He knew we had lately concluded a treaty with England, which had been constantly violated; and what faith, Mr. McD. asked, could be placed in a nation which one day makes a treaty, and the next violates it? The same remark would apply to Spain, so far as they have depredated upon our commerce.

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Mr. McD. said, he had all along declared himself opposed to war, or to any measures which would lead to it, and he still held the same opinion. He had no prejudice against or in favor of any nation whatever, except so far as their conduct towards this country was friendly or otherwise; and he could see no reason for giving instructions to the commanders of our vessels to seize and bring in the vessels of one country which may commit depredations upon our commerce, and not those of another. He was himself opposed to the bill altogether; but, if it must pass, he wished to make it contain as little mischief as possible, and he thought by striking out the word "such," and by that means making it general, France could not take the same offence at it; as the bill now stood, it was tantamount to a declaration of war.

Mr. J. WILLIAMS was in hopes, when the gentleman from North Carolina first made his motion, that the opposition which he had heretofore shown was done away, and that the bill was only objected to because it was not general; but now it appears that gentlemen are opposed to the bill altogether. He had hoped when gentlemen had reflected upon what had taken place, even within our own jurisdiction, that there would not have been a single dissenting voice in the committee. Gentlemen allege that this measure will lead to war; but he would ask whether other neutral nations had not taken measures fully as strong as this, without producing war? For his part, he supposed it might have been better if this country had gone into this system of defending our commerce. He was opposed to it for a considerable time. He was in hopes of a reconciliation taking place; but he had been deceived from time to time, and, instead of any appearance of



accommodation, every day brought information which convinced him that, except we meant to submit altogether, we must defend ourselves.

This being the case, he asked gentlemen which they would choose? Whether they would suffer themselves to come under the power of the French nation, or repel force by force? He did not believe any gentleman would say we ought not to embrace the latter.

At a time when the enemy's vessels are within our own jurisdiction, are we to withhold the necessary instructions to the commanders of our vessels? He hoped not. Not that he would go hastily into war; but have we not, he asked, been in war for a long time?—a war on one side, and total submission on the other. Yet the House are now called upon to postpone the consideration of this question, lest it should produce war. The only way to prevent a war, he believed, was to be prepared to meet it. If spirited measures had been taken during the extraordinary session of Congress, he believed it might have prevented the loss of property to the amount of twenty millions of dollars, and the necessity of a war. But Congress had gone on, from time to time, saying, we will wait for this, that, and the other, and it will, in all probability, prevent war. This conduct had produced the greatest difficulties, and yet gentlemen wish to go further in the same course. The enemy's vessels, he understood, are within the Capes, and he supposed gentlemen would wait till they came up to the city, before they would take any means to oppose them. He believed it was high time to say, "We will not submit," and to prepare to repel the repeated aggressions of our enemy.

Mr. SHEPARD observed, that much had been said on this bill, and on the resolutions on the same subject, which were referred to the same committee. Members differed in opinion very materially as to the proper mode of conducting our affairs at this important crisis; but he could see no reason for deferring vigorous measures any longer, as he did not see the least ground of hope for a reconciliation; it was, therefore, idle to dispute about it.

But gentlemen decline taking this measure, because they are apprehensive it will irritate the French nation. Mr. S. believed this country could do nothing to alter the conduct of the French nation towards us, except it were by giving them money. There could be no doubt, he said, but the French meant to subjugate this Government, and to lay the United States under contribution. Every newspaper told them this; yet some gentlemen seem opposed to every thing intended to resist their doings, or even to tell them they have done wrong. For his part, he believed that nation had been boiling over with madness for two years past, and that they are totally void of every virtue.

They have told us, said Mr. S., in plain terms, they mean to subjugate us. They say they have a strong party in this country, and that they understand diplomatic agency as well as any other nation. This he believed, as he saw they had effectually used that power in subduing every country in Europe that they had any thing to do with, except Great Britain, and he feared they would succeed against her. No man, he said, disliked war more than him; but, he believed, the best way of preserving ourselves from it, was to take measures to oppose a power which has so unjustly treated us. We ought not, he said, to trifle any longer, but take new ground. The more insults we submit to, the more we shall have. He could not suppose gentlemen would be willing to wait till all our vessels are taken and our Government overcome, before they will make resistance. If we meant to preserve our independence, he believed resistance ought now to be made. It is time, said he, to tell the French nation, "we will not submit any longer." This was the way we gained our independence, and this must be the way by which we must keep it. He hoped, therefore, the bill would pass as it stands.

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Mr. OTIS said, though he had sufficient confidence in the committee to induce him to believe that the present motion cannot succeed, yet he could not forbear to expostulate with gentlemen on the impropriety of any measures which should have a tendency to give unnecessary offence to other nations, besides that against which we are called upon to act. To increase our foes would only be to aggravate our misfortunes. Mr. O. hoped and believed this country would be able to defend itself singly and alone; but, supposing, as gentlemen agree to be true, that we are on the eve of a war, would it not be highly impolitic to irritate a power whose assistance we may find very acceptable in the course of a few months against a common enemy? He hoped it would never be necessary to seek for this assistance, though it is possible, if we are driven into war with our old friends, that we may willingly avail ourselves of the aid of our old enemies; for, though we had suffered injuries from more nations than one, yet he agreed with our Envoys in the sentiment that, if France should attack us, we must seek the best means of defence; and may find it more prudent to forgive than to provoke, by harsh measures, a nation which may aid in our defence.

Mr. O. said, if, after injuries had been committed against us by Great Britain and Spain, of the same nature with those which have been heaped upon us by France, and those nations, like her, had refused to hear us, or to do us justice, he would support the same measures against them and vindicate our national character and honor. But though he should by no means attempt to extenuate the conduct of Great Britain or Spain, he believed he might say that the depredations committed by those powers subsequent to their treaties, have been under color, at least, of the laws of nations. But the difference in the degrees of these depredations, in comparison with those of the French Republic, cannot be better ascertained than by the rates of insurance paid as a security against them respectively.

Insurance may be effected against the Spanish and British for five per cent., whilst it cannot be procured against the French for less than twenty-five or thirty per cent. And though the British cruisers do, in some cases, take our vessels, in others they afford them protection. Indeed, he believed, the number of our vessels rescued from the fangs of the French, and restored to us by

the British, greatly exceed in value the amount of those which have been taken from us by them since their treaty. They have saved to Philadelphia about a half a million of dollars. With respect to Spain, he believed her disposition towards us to be friendly, and that an injury offered by them to us was done at the instigation of another country. Again, we have received, under the late treaty with Great Britain, £100,000 sterling for damages sustained by her depredations, and from Spain \$300,000 have been awarded on the same account. So that no comparison could possibly be made between the treatment we experienced from France and those countries. She makes no treaties—she pays no compensations.

Mr. KITTERA rose to observe, that one of the articles in our treaties with Great Britain and Spain, stipulates that no reprisals shall be authorized by either country until application shall be made to the other, which he thought would be a sufficient reason for negating the amendment. He believed it would be proper to adopt an additional rule to those already established for the government of the House, viz: that when French privateers come within our own ports and take our vessels, a long debate shall not take place upon a bill to instruct the commanders of our vessels to make reprisals.

Mr. GALLATIN, in reply to the last observation of Mr. KITTERA, said that, if his assertion was true, that the French privateers were committing depredations within our own ports, or any where within our jurisdiction, it was no reason why this bill should pass immediately; for, without the bill, the PRESIDENT had full power to apply the armed vessels, or any other force at his disposal, in repelling the outrage. As to the amendment, he would not pretend to say that it was very essential; but, he supposed, the reason for moving it was this: It was asserted that this bill was not a declaration of war, but only a kind of special reprisal authorized by the law of nations; it was, therefore, thought it would be proper to make it a general regulation. If it was intended to be a declaration of war, it would be extremely wrong to make two enemies instead of one. If it was to be passed with that intention, it would be wrong to adopt the amendment; but he supposed it was introduced on the ground assumed by the supporters of the bill, that the measures proposed might be entered into without violating the laws of nations, and consistently with a state of peace.

The question was put and negatived, there being only 22 for it.

The question then came up on the bill's going to a third reading; when

Mr. BRENT said he voted against the amendment offered by the gentleman from North Carolina, because he apprehended its effects would be to involve us in war with two countries instead of one. The amendment of the gentleman from North Carolina was to strike out the word *such* in the bill, in which instance the commanders of our armed vessels would have been directed by the PRESIDENT to seize and take the vessels of any nations that shall have committed, or are found hovering on our coast for the purpose of committing, depredations on the commerce of the United States. As the bill now stands, it will only apply to French depredations; if amended as proposed, it would have applied to Great Britain, or any other country whose subjects or citizens are unlawfully spoliating our commerce—as he believed that the laws of nations and the stipulations of treaties had been violated in relation to us, not only by the French, but the British also, he considered the tendency of this amendment might be to involve us in war with Great Britain, and he did not wish to increase the number of foes with whom we were to engage in hostility. That he was accurate in his opinion that the armed vessels of Great Britain were at this time in the practice of violating our neutral rights, seemed to be acknowledged by others, and particularly by the member from Massachusetts, (Mr. OTIS,) who had opposed the amendment, with a suggestion that in the event of an open rupture with France, it might be expedient for us to call in the aid of England, and, supposing the amendment might have a tendency to create irritation between that country and this, it was improper that at this crisis it should be adopted. This reasoning of the gentleman from Massachusetts could only be derived from an admission that Great Britain did not at this time respect our neutral rights; for, as the amendment only authorized the seizure of vessels spoliating our lawful commerce, there could be no danger that such a regulation would involve us in war, or produce a coolness with Great Britain, without a previous acknowledgment that her armed vessels were illegally depredating our commerce, and consequently would be affected by the general provision of the amendment, which, instead of confining our reprisals to French, extended it to vessels of all nations thus acting illegally in relation to ours.

Though, Mr. BRENT said, he was not, under any circumstances, like the gentleman from Massachusetts, for embarking our destiny with that of Great Britain in her present contest with France; though he should consider such an event as one of the most deplorable which could befall the United States, yet he was willing and even studious to preserve peace with Great Britain, notwithstanding the many injuries we had received from that quarter; on the same principle, from the same desire to preserve the tranquillity of His country, he was opposed to the bill itself. He considered this bill as perhaps determining the question, whether or not there should remain a possibility of reconciling our differences with the French Republic. He considered this bill as probably dispelling every ray of hope which yet remained of a reconciliation taking place, and he hoped gentlemen would pause a moment before they adopted a measure so serious and awful. He did not see that we were at present exposed to any greater danger, or our commerce to any great extent to ravages more considerable than we had experienced for some time past.

He acknowledged that our commerce had received great and repeated injuries from France; that it had long felt their injuries and still continued to suffer; yet, under all these circumstances, a disposition has been constantly evinced, and he believed was still sincerely cherished by the

great mass of our people, that recourse should not be had to the last fatal resort, till every mode of amicable negotiation had been attempted, and every rational hope of a peaceable adjustment of our complaints was exhausted. From these impressions, and at a period when our commerce was suffering their unjust depredations, we had sent Commissioners to the French nation; and was it proper, until we were certainly advised that our Commissioners had left France, or that every hope of their effecting the object of their mission was to be abandoned, to precipitate a measure, the probable effect of which would be to destroy all prospect of reconciliation, even if, at the present moment, our Commissioners should be engaged in a treaty? Mr. B. said, that neither the despatches which we had received from our Commissioners, nor any other intelligence from abroad, that he was acquainted with, compelled a belief that every possibility of negotiation was past; on the contrary, it was perhaps strictly within the bounds of probability, that, when the Government of France discovered an inflexible disposition on our part not to accede to terms dishonorable or disadvantageous, others of a less exceptionable nature would be, and perhaps before this have been, proposed. But, in every event, what is now a matter of conjecture, a few weeks will reduce to certainty; a few weeks must bring us certain and decisive accounts from Europe, and he was for postponing all deliberation respecting the very delicate subject under consideration till this intelligence arrived. At present, he believed it would be premature and inexpedient to adopt the proposed measures, and should therefore refuse to give them his assent.

The question on the bill going to a third reading, was taken by yeas and nays, and stood—51 to 39.

The bill having been determined to be read a third time, the usual question was put by the SPEAKER, "For what day shall it be made the order?" Monday and to-day were answered.

Mr. GALLATIN hoped Monday would be the day. He did not see the necessity for passing the bill to-day. But it was said, the House ought not to exercise their discretion upon this subject, because French privateers are within our Capes. To this, he replied, that if there was any invasion of our jurisdiction, and depredations committed within it, the PRESIDENT OF THE UNITED STATES had power to repel them without this law. He knew he had it, because the power is expressly given to him in the law respecting the revenue cutters; and he knew the power had been used by him when a vessel, taken by a privateer within our jurisdiction, had been restored to the owner by the PRESIDENT. He agreed with the gentleman from Delaware, that the PRESIDENT had not power to employ an armed force to make reprisals of vessels within our jurisdiction which may have taken vessels belonging to the United States.

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Besides, he understood that the Senate were not in session to-day, and therefore the bill, if passed to-day, could not go any sooner to the Senate than if it passed on Monday. If, therefore, it could not hasten the final passage of the bill by going to the Senate to-day, he wished to know what other reason could be given for so hasty a proceeding? He saw none. He saw one reason for not passing it. Every hour might be expected to bring despatches from our Ministers. It was known that a vessel had arrived from France which is said to have brought accounts up to the 8th of April. Perhaps she may bring information that would produce unanimity of opinion as to the propriety of passing this bill.

Mr. J. PARKER said, as it could make no difference whether this bill passed to-day or on Monday, he should be in favor of Monday, as it is possible the vessel which had been mentioned might bring some advices from our Envoys, though he expected nothing more favorable from that quarter than had been already received. As it was said a French privateer was within our boundary, it was probable she might commit some depredation which might be heard of before Monday, which would convince every one of the necessity of passing this bill.

Mr. OTIS saw no reason for delaying the passage of this bill till Monday, arising from the possibility of the vessel, which was said to have arrived from France, having brought any news; because, if information should be received from our Commissioners which would give a different aspect to our affairs, the PRESIDENT OF THE UNITED STATES could refrain from giving these instructions. If this bill was passed to-day, it might be reported to the Senate on Monday morning; but if it was postponed till Monday, gentlemen might come with fresh motions and speeches, and produce a further delay.

Mr. DAVIS hoped the passage of this bill would not be insisted upon to-day. This subject had but very lately been referred to a select committee, and they had made an expeditious report. He had just given his vote in favor of the bill's passing to a third reading; but if, contrary to the usage of the House, he should be called upon to vote on the passage of the bill to-day, he should vote against it.

Mr. VARNUM said, since the bill would become a law as soon if passed on Monday, as to-day, he could not see why the motion was objected to. This question, Mr. V. said, was of the greatest importance, as it went to plunging the country into a war from which it might not be extricated for many years to come. Yet gentlemen act as if they were afraid intelligence should be received before this bill becomes a law, which shall make it unnecessary. Indeed, it appeared to him, that there are certain gentlemen in the House who are determined to have a war with France, at any rate.

Mr. V. said, it had been complained that an allusion had been made to the coffee-house books of this city, respecting certain information from France; he did not think that was more out of order, than what was heard one day about French privateers having landed men on the coast—another, about their being in our harbors, and taking our vessels from thence. All which stories, he had no doubt, were raised to influence the votes of members of this House. The public would doubtless

see them in this light.

Mr. SITGREAVES said, as the gentleman last up appeared to have some doubt as to the fact of a French privateer's being within the bay of Delaware, he would read the information lately given by a Captain Canby, on oath, at the office of the Secretary of State. [This certificate has appeared in the papers: it speaks of having seen a French privateer four miles within the bay.] He would add, that with respect to the vessel arrived from Bordeaux to-day, she brings information that our Commissioners were yet in Paris, but not received by the Directory. She left Bordeaux the 8th April, so that the hope of receiving any favorable news by her could not be indulged. Mr. S. observed, that this bill was intended to meet a case of emergency, and it was proper to get it passed as soon as possible. If he saw it passed to-day, he should be sure there could be no difficulty about it next week; but, if it was postponed till Monday, he should be afraid of further time being spent upon it. The gentleman from Kentucky (Mr. DAVIS) had already said, it would not be proper to pass this bill while our Envoys are in Paris; therefore, though the question were postponed till Monday, his vote could not be expected. He, therefore, saw no reason for the delay.

The question on the bill's being read a third time on Monday, was put and negatived, 49 to 41. The question on reading it a third time to-day, was then put and carried.

The bill was accordingly read the third time and passed by yeas 50, nays 40, as follows:

YEAS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Josiah Parker, John Read, James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Lemue Benton, Thos. Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Thomas T. Davis, John Dawson, Lucas Elmendorph, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

## MONDAY, May 28.

### *Marine Corps.*

Mr. SEWALL called for the order of the day on the report of the Committee for the Protection of Commerce and the Defence of the Country, proposing an arrangement, in one corps, of the marines, who are or shall be engaged in the service of the United States, and by annexing them to the existing Military Establishment, to consist of a major and suitable commissioned and non-commissioned officers, 500 privates, and the necessary musicians.

Mr. GALLATIN wished the committee who made this report, would inform the House how many men would be wanted on board the several armed vessels of the United States.

Mr. J. PARKER said the United States have three frigates, twelve ships, and ten galleys. The two 44 gun frigates will require fifty marines each; one of 36 will need 48 men; two vessels of 22 guns each, will want 25 each; two vessels of 20 guns will require the same number; eight vessels of 16 guns each will need 20 men each; and ten galleys each 10 men, making in the whole 518, exclusive of sergeants and music. There will be no additional expense attending the change except the pay of a major, and it would be much more convenient to be thus organized, than to remain as at present.

Mr. VARNUM wished to know whether these men could ever be together so as to enable the commanding officer of a battalion to discipline the corps. He believed they would be separate in the different vessels, and that there would be no means of bringing them together for the purpose. Besides, those marines who have engaged in the service, have engaged to serve on board ship, and not on land, so that this law would have a retrospective effect on those men, now, to say they should serve both on sea and land.

Mr. SEWALL could not say that these marines could be brought together to be disciplined; but the major would superintend the whole, hear complaints, and attend to the recruiting service. He would also have to attend to the fortifications, and take a great deal of trouble from the War office. The men would also sometimes be on shore, and without some officer is appointed, they would be solely under the care of the lieutenant. He believed, upon the whole, much advantage and economy would be derived from it.

The question being put upon the report, it was agreed to—54 votes being for it.

The committee then rose, and the House agreed to the report, after a few observations from Mr. GALLATIN, hoping that, when the bill was brought in, this corps of marines would not be made a permanent part of the Military Establishment; but only have the same duration with the laws for equipping and keeping in employment the armed vessels.

**FRIDAY, June 1.**

***Intercourse with France.***

The bill for suspending the commercial intercourse between the United States and the French Republic, was read the third time; and, after the blanks were filled,

Mr. GALLATIN inquired, whether there was not a mistake in the third section of the bill in that part which related to foreigners. The bill, as it stands, would affect vessels belonging to foreigners residing here. He proposed a change in the phraseology.

Mr. SEWALL had no objection to the alteration, and he supposed it might be made by general consent, without recommitting the bill.

Consent was granted, and the alteration made.

The following question was then put, "Shall this bill pass?"

Mr. McDOWELL could not reconcile it to himself to give a silent vote on the passage of this important bill. He had heard no reason assigned for the introduction of this bill, either when the original proposition was before the House, or since; and, therefore, though the bill might pass by a large majority, he should give his vote against it. It had been said, by the gentleman from Massachusetts, that this bill was intended to secure the property of the citizens of the United States from capture. How was this to be done? This bill will not lay an embargo, and, therefore, cannot prevent our vessels from falling into the hands of the French, or any other nation, who chooses to attack them. If gentlemen wished to effect their object, they ought to propose a general embargo; but when he found gentlemen indisposed to this, he could scarcely believe them serious in their wishes to prevent the property of our citizens from being taken. By this bill our merchants are prohibited from trading to any of the ports of France or her dependencies. This he neither thought politic or just. He thought there was no cause for going this length at present. It would be seen by the estimate on the table, the great amount of exports sent to those countries, and this bill would not only destroy the trade to France and her dependencies, but affect also all our other trade. Gentlemen better acquainted with commerce than he pretended to be, would be able to ascertain the effects of this regulation with more precision than he could do; but it appeared to him that this regulation would put the whole of our exports within the power of Great Britain. He hoped, therefore, gentlemen would consider the inconveniences which would be produced by this measure, and not suffer their passions, which are so highly irritated against France, to lead our citizens into serious difficulties, for the sake of doing her some injury. There could be no doubt, that the moment France received the information of the passage of this bill, all negotiation would be put an end to, and they will lay their hands on all the property belonging to citizens of this country, which they can meet with. He was of opinion that the prudence of merchants alone would be sufficient to regulate the business, without Legislative interference. Mr. McD. hoped, therefore, the bill would be passed, and called the yeas and nays upon it.

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Mr. SEWALL said, it was very true, as the gentleman from North Carolina observed, that no general reasons had been given in favor of this bill; and he did not know that any opportunity had occurred in which they could with propriety have been given. Certainly if a measure meets with general approbation, and passes without argument and without discussion, it must have been carried for the best reasons. Reasons, said he, are not strengthened by debate; general consent indicates the strongest reasons in favor of a measure that can be assigned.

The gentleman from North Carolina has supposed that the only arguments in favor of this bill was, that it would be the means of protecting the commerce of our citizens; that argument, he agreed, was forcible, but he confessed he relied upon this measure very much affecting our enemy. It occurred to the committee that this measure might very much distress the French West Indies, which are the harbor of a nest of pirates, which continually assail our commerce. It is true, he said, that our commerce is also annoyed in the European seas, but in a much greater degree from vessels fitted out from the West Indies; the privateers from these islands depredate our commerce upon our coast, and if no measures are taken to prevent it, they might soon be expected on our shores. Any measure, therefore, which can be taken, consistent with our political situation, ought to be taken to prevent this mischief. This would not be carrying on hostility, but would withdraw from our enemies the means of supporting their hostility. Gentlemen have objected to this bill because they conceive it will not have this effect; he was, on the contrary, in favor of it, because he believed it would have the effect.

Mr. S. considered our trade with France as at present annihilated, as well as that with Spain and Holland, in a great degree; and France must hereafter, if this bill passes into a law, carry on her trade with this country by means of vessels belonging to the Hanse Towns, Sweden, or Denmark; and having reduced France to the necessity of changing her measures with regard to the neutral powers of Europe, she might, perhaps, be induced to change her conduct with respect to the United States, or perhaps with respect to all the neutral powers. He thought this measure recommended by these political considerations. Whether it would produce all the effect which had been mentioned, he could not tell, but it was well calculated to produce it. And the only objection to the measure appeared to be, that it would produce commercial disadvantages to our

merchants; but since the adoption of the decree of the French Directory, which directs that all neutral vessels, with British produce or manufactures on board, shall be confiscated as good prizes, and which goes to the destruction of nearly all our trade, this objection would have but little weight, as a trade thus carried on would stand but a very small chance of producing any profit. Some merchants, indeed, are of opinion that our trade to France and her dependencies has for a long time past been attended with loss instead of profit. It was evident, he said, that the decree to which he had alluded had already had the effect in this country to lower the price of our produce, as many vessels employed in that trade are now employed in a different manner.

Mr. GALLATIN must confess, without pretending to be a very good judge of the subject, that this measure appeared to him at least of a doubtful nature. The object of it is said to be to distress France and the French West Indies as much as possible. How far this could be effected, or whether the attempt to distress our enemy might not distress ourselves more than the enemy, he was not able to ascertain with precision. With respect to France herself, he did not see that it could have any effect. As to the West Indies, Guadaloupe, which he supposed was the place principally aimed at, was so situated with respect to neutral islands that she could always procure supplies of provisions from them. The only place, then, which would be affected by this regulation would be St. Domingo, and there he believed it might have some effect. If the intercourse between this country and that was stopped, it might be distressed for want of provisions; but in doing this he was persuaded we should also injure ourselves, by annihilating our commerce and sinking the price of our produce. With respect to our commerce, in six weeks or two months, all the trade which our merchants now carry on to French ports would be transferred to other neutral nations. The Danes and Swedes will come into our ports and carry our produce to the French islands; so that the only difference, after that time, will be that the carrying trade which we now have will be transferred to those powers. France will be supplied by way of Holland or Hamburg, and as the freight and other expenses attending the trade will of course be greater than if the commerce was carried on direct, it may be expected the price here will be low. It would be the same with respect to provisions. If the measure would be likely to distress France or her islands to any considerable degree, so as the better to bring her to terms of accommodation, he should not object to it. The inconveniences attending it must be encountered by our citizens; but seeing its effects on our enemy would be doubtful, and upon ourselves certain, he should vote against the bill.

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Effectually to prevent provisions being carried to the West Indies, the exportation of them ought to be forbidden, both in our own vessels and in all others. Without this we cannot prevent our provisions from being exported by means of neutral vessels to French ports.

So far as related to his own constituents, Mr. G. said, they are not immediately concerned in this question, as they do not export their produce either to the West Indies or any port of Europe, but to New Orleans, by the Mississippi. He stated the matter as it struck him, and left other gentlemen to enlarge upon it.

Mr. RUTLEDGE allowed that the bill was liable to the objection which had been urged by the gentleman from Pennsylvania, and which might be made against every measure which would be proposed for the defence of the country; it might be said of it that it will produce some inconvenience to our constituents, and bear hard upon the commercial and agricultural interests; but he believed no measure could be devised which would prove so injurious to France, and as little inconvenient to America, as suspending the commercial intercourse between the two countries.

The gentleman from Pennsylvania thinks the bill under consideration will prove fruitless, because the vessels of Sweden and Denmark may carry our produce to the French West Indies; this could not be contemplated as a probable event; in the convulsed state in which almost all the commercial States of Europe are, neutral bottoms will be in too great demand in Europe to permit of their seeking freights in America. If, however, they shall come here, and the Danes and Swedes become our carriers, we can then adopt the regulation suggested by the gentleman from Pennsylvania; we can then prohibit our intercourse with the French, even by means of neutrals; or as that may be impracticable, inasmuch as we shall not have any control over a neutral vessel after she leaves our ports, we can lay a general embargo.

Mr. R. thought gentlemen were greatly mistaken who imagined the present measure would lower the prices of our produce. He did not believe they would fall in consequence of the present bill or any which could be passed. He did not believe a declared war would lower the price of our grain. For some time past, an *ex parte* war has existed; the French have made war in every sea upon our commerce, which for months past has been bleeding at every pore. Government has not protected the trade of the country, but has, by preventing our vessels from arming, deprived our merchants of the use of the means their wealth afforded, of protecting themselves; thus insurance and seamen's wages have been higher, and the price of produce lower than they probably will be in a state of declared war. The grain of the State he had the honor of representing sells for less than it has done for twenty years past, or at any period of the last war; rice, which is the great staple of the country, and which, a few years ago, sold at six dollars the hundred weight, now sells but for a dollar and a half, and Indian corn, which article, the year before last, sold at a dollar a bushel, now sells for twenty-five cents only.

The gentleman from North Carolina has insisted, that because our trade to France and her dependencies, for the two last years, has been great, we ought not to stop it. He thinks that merchants understand their interests better than we do, and that if they, who are in the habit of calculating risks, think it proper to prosecute a trade with France, that we ought not to restrain them. Mr. R. allowed that our exports to France the year before the last had been great, but said

that our returns had been small indeed; of the great number of valuable cargoes sent to St. Domingo, very few have been paid for. The proclamations of persons in authority in that island, and other deceptive contrivances, have allured much of our property to its ports, but, arriving there, it has been arbitrarily taken at a price fixed by the government, and payment made by bills upon France, which have not been paid, and are now lying protested at Paris, to the amount of many millions of dollars. So that our exports, which the gentleman says France has taken, have been literally *taken*, very little of it having been paid for. Upon such terms it was impossible to suppose this commerce would continue, and it is fallacious in the extreme to calculate, as a permanent trade, that which a peculiar state of things has occasioned with the French islands for some years past, and which we are now suffering for having engaged in.

Mr. R. said he was not apprehensive of giving umbrage to any honest merchant or fair trader, when he declared it as his opinion, that a trade with France would not and could not be carried on at present but by persons sinking under pecuniary embarrassments. Like gamblers upon the threshold of ruin, they adventure and put at hazard the remnants of their fortune to increase the chances of recovering what had been previously lost. The trade, he also believed, was in a great degree carried on for some time past by bankrupts, who, by means of bank facilities, and other credits fraudulently obtained, were enabled to speculate in a sea of danger and risk, into which they would not have gone if they had had any thing to lose. In such a state of things, it would be wise and expedient for Government to interfere, and say to the merchants who are willing to continue trading with France, although you may be disposed to continue this commerce, because it is carried on upon a borrowed capital, and because it is insured in Europe, yet we will put a stop to it, for we must take care of our sailors. When they are abused and imprisoned, and their captains publicly whipped in French ports, it is our duty to protect and preserve them from a continuance of such injuries. Mr. R. concluded with observing, that the present bill would occasion much distress to the French islands; would be the means of preserving many of our vessels and seamen, and answer other very valuable purposes. He hoped therefore it would pass.

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Mr. OTIS said, as neither of the gentlemen who had spoken on this subject had expressed an opinion which had a primary influence on his mind, he would beg leave to declare it in a few words. It was undoubtedly desirable, that this country should have a free commerce with all the world; but, under our present circumstances, with relation to France, no intercourse will be maintained with that country by the fair American merchant. He will not venture his property either to France, or to any of her dependencies. None but merchants who may have exclusive privileges in the ports of France, will now carry on this trade. He had no doubt that Citizen Hedouville, and other agents of the Directory, would give exclusive privileges to a certain description of dealers at the expense of the fair trader. Protections of this kind had been given, he believed, to favorite traders in every considerable port in the United States; and were not the proposed regulations to be adopted, these persons would be growing fat and rich, while the whole body of merchants would be suffering from the injustice and violence of the French. He did not think it would be prudent to leave room for encouragements of this kind to any of our citizens. For, while they are in the habit of receiving large favors from the agents of the French Government, they will be likely to feel a stronger attachment to the interests of that country than of their own; and a stronger temptation could not be offered to them than a monopoly of the French trade.

Mr. O. inquired whether, in a state of war, it was not usual and proper for all nations to restrain their subjects from a direct trade with their enemies? And are we not in war? Have we not passed a variety of bills which gentlemen have declared amount to war? This very morning, a bill has been passed, which, according to their construction, reaches the climax of war measures. If, then, we are now in a state of war, it will be inexpedient to continue to carry on this traffic. But, it is said, if we restrain our own citizens, it will be carried on by neutral nations. To a certain degree, it might be supposed that this would be the case; but this is one of the losses incident to a state of war. We must expect that a part of our carrying trade will be transferred to neutrals for a time; but though this will affect the mercantile part of the community, it will not wound the agricultural interest so deeply as a total suspension of commerce. If neutral vessels come hither for produce, the price will not fall so low as it otherwise would do, and the farmers will be the better able to bear the burdens which a war must necessarily lay upon them.

Mr. W. C. CLAIBORNE said, it was his intention to vote in favor of the passage of this bill for two reasons. The first was, we have many vessels and much property afloat on the ocean, which we cannot adequately defend, and which is now constantly depredated upon. This measure will keep many of our vessels at home. The second was, that it would tend to increase our revenue, which at this time is a very desirable thing; for he was of opinion, that the neutral powers of Europe would become the carriers of our produce to the West Indies. Denmark, Sweden, and the Dutch all possess islands in the West Indies in the neighborhood of the French Islands, and if they come and fetch away our produce, the duty on tonnage will be increased; and the duties arising from imposts will not be lessened, as they will doubtless bring with them the produce of Europe when they come out to this country.

The question on the passage of the bill was then taken, and stood—yeas 55, nays 25.

#### MONDAY, June 4.

Mr. MACON informed the House of the death of his colleague, Mr. BRYAN, at nine o'clock this morning. The House, in consequence, entered into a resolution appointing the members of North Carolina a committee to manage the funeral of the deceased, and stating that the House do

attend the same. This committee afterwards reported that the funeral would take place at nine o'clock in the morning.<sup>[35]</sup>

### ***Seditious Practices.***

Mr. SEWALL, from the committee for the protection of commerce and the defence of the country, reported a bill for the prevention and restraint of dangerous and seditious practices, which was committed for Wednesday.

[This bill proposes, that any alien resident, or who shall come to reside within the United States, who hath been convicted of any felony, or other infamous crime, or who shall be a notorious fugitive from justice, upon any charge of treasonable or seditious practices, in any foreign State or country, or whose continuance within the United States shall be, in the opinion of the PRESIDENT OF THE UNITED STATES, injurious to the public peace and safety, may be deemed and adjudged a dangerous person, and may be required to depart from the country, and be apprehended and removed therefrom. And if any person, whether alien or citizen, shall secretly or openly combine, or conspire together, with an intention of opposing any measures of the Government of the United States, which are or shall be directed by the proper authority, or to defeat the operation of any law of the United States, or to discourage or prevent any person holding any place or office in or under the Government of the United States, from undertaking or executing his trust or duty; and if any person, with intent as aforesaid, shall by any writing, printing, or advised speaking, threaten such officer or person in public trust, with any danger to his character, person, or property, or shall counsel or advise, or attempt to procure any insurrection, riot, or unlawful assembly or combination as aforesaid, whether such conspiring, &c., shall have the proposed effect or not, shall and may be punished, upon the conviction of the offence, by a fine not exceeding --- dollars, and by binding, with sufficient surety for good behavior, or by imprisonment for a term not exceeding --- years; and if the person so convicted shall be an alien, he may be farther adjudged, in lieu of such binding or imprisonment, to be banished and removed from the territory of the United States.]

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### **TUESDAY, June 5.**

Mr. RUTLEDGE proposed a resolution to the following effect, which was unanimously agreed to:

"*Resolved*, That the members of this House, from a desire of showing their respect to the late Nathan Bryan, Esq., member of this House, deceased, will go into mourning for one month, by wearing a crape on the left arm."

### ***Relations with France.***

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I now transmit to both Houses the communications from our Envoys at Paris, received since the last which have been presented by me to both Houses.

JOHN ADAMS.

UNITED STATES, *June 5, 1798.*

The said Message, and communications referred to therein, were read, and ordered to lie on the table.

### **WEDNESDAY, June 6.**

Mr. ALLEN proposed a resolution to the following effect:

"*Resolved*, That there shall be a call of the House at half past eleven o'clock every day on which the House shall sit during the present session."

Ordered to lie on the table.

### ***Relations with France.***

Mr. D. FOSTER laid the following resolutions upon the table, viz:

"Whereas the French Republic, regardless of those principles of good faith which ought to ensure a due observance of treaties, have, in various instances, violated the express stipulations of the treaties heretofore made and subsisting between the United States and the French nation, in a manner highly injurious to the interest and honor of the United States; by reason whereof the United States are released from all obligation on their part to respect the said treaties, or to consider themselves as holden or bound thereby.

"*Resolved*, That it is expedient to make a Legislative declaration notifying the citizens of the United States, and all others concerned, that the said treaties are no longer obligatory upon the United States.

"*Resolved*, That provision ought to be made by law, authorizing the PRESIDENT OF THE



UNITED STATES to grant letters of marque and reprisal against all ships and other vessels, with their cargoes, found on the high seas, sailing under the authority of the French Republic, or belonging to the said Republic, or any of the citizens thereof, or its dependencies; to continue and be in force until the French Government shall revoke and annul the orders and decrees authorizing the capture and detention of the vessels and property of the citizens of the United States, contrary to the laws of nations.

"*Resolved*, That provision ought to be made by law granting a bounty, in proportion to the size and number of guns, on all armed vessels (which shall be taken and brought into any of the ports of the United States) belonging to the Republic of France, or to any of the citizens thereof, or of its dependencies, or to others sailing under the authority, or pretence of authority, from the said Republic."

They were ordered to lie upon the table.

**FRIDAY, June 8.**

***Letters of Marque, &c.***

Mr. D. FOSTER then called up his resolutions relative to granting general reprisals, letters of marque, &c., which, being read, he moved to refer to the Committee for the Protection of Commerce and the Defence of the Country, with power to report by bill or otherwise.

Mr. DAVIS hoped these resolutions would not be referred. It appeared very strange to him that gentlemen should be desirous of taking this step at present. He had heard much in this House about French parties, and of gentlemen being attached to France, but he thought the House had witnessed, not many minutes ago, something of another party, (referring to the negative which had been put upon the resolution calling upon the PRESIDENT for information respecting British depredations.) And yet, when we have lately received information from France that peace is probably yet within our grasp, a motion is brought forward which, if adopted, would effectually shut out all hopes of a favorable termination of our dispute. In the conclusion of the late despatches, he read as follows:

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"As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately, to receive instructions of our Government, if that would be agreeable to the Directory; if it was not, we would wait some time, in the expectation of receiving instructions."

So, that two of our Commissioners might be expected shortly to return, to lay certain propositions before the Government here, or that they will write for farther instructions; and, whilst these things are pending, can a proposition like the present be justified? He thought not. It was not, in his mind, a declaration of war; but it was evidently a war measure. And when it is evident, from our Envoys' own showing, that the negotiation between them and the Minister of Foreign Affairs in France was in train on the 8th of March, the date of their last despatches, as certain propositions had been made to them which were not rejected, he thought it would be extremely imprudent to refer resolutions of so hostile a kind as these certainly are. It would be time enough, Mr. D. said, to adopt a measure of this kind when our Envoys shall have informed us that peace is unattainable; but, whilst they held up a contrary expectation, he could not consent to do any thing which should cast wholly away the hope of preserving a state of peace. With respect to the first resolution, which declares the treaty between France and this country void, he had not much objection to it, because it must be so considered from the laws already passed; but those which respect the granting letters of marque and general reprisals, he thought very objectionable indeed.

Mr. HARPER said, if the arguments of the gentleman from Kentucky were well founded, he had not introduced them at the proper time. If he views the state of our negotiation with France in the light which he had placed it, his objections to this measure are natural and consistent; but they ought to be made, when a bill is brought in, against its being read a second time; or if the motion had now been to adopt the resolutions instead of referring them, the remarks which he had made would have been perfectly in order; but that gentleman must know that there is a great difference between committing and agreeing to adopt a resolution. He would confess that he, for one, should not now be ready to agree to any of those propositions, though a fortnight hence he might be willing to adopt them all. If the motion was, therefore, for adopting, instead of referring them, he should move a postponement, or the previous question, or take some other mode of disposing of them; but when the motion was merely to refer them to a committee who might report upon them immediately, or let them lie until farther information was received from our commissioners; or, if they report a bill, that bill might lie until gentlemen thought proper to pass upon it. He did not, therefore, see any ground for the alarm which the gentleman from Kentucky has shown. He confessed he could not look upon our negotiation with France as in the happy train in which it appears to that gentleman. He knew we might have peace, if we would consent to have our property plundered *ad libitum*; or by paying a contribution to the full amount of our ability to pay, which were the terms that Talleyrand and his agents had offered to our Envoys; and this loan was made a *sine qua non* by Talleyrand. He could not tell, therefore, how the gentleman from Kentucky could conceive the negotiation to be in good train, except he is willing to pay the tribute which France demands from us.

Mr. VENABLE said, the gentleman last up had drawn a distinction between committing these resolutions and agreeing to them, and had said that he himself is not ready to agree to them. Mr. V. thought resolutions of this kind ought not to be laid upon the table before the House is ready to decide upon them, as the moment the foreign nation to which they have reference hears that such resolutions have been brought forward, they will take advantage of it, and seize all the property belonging to our citizens within their power. If the resolutions are not proper, therefore, to be adopted, they ought immediately to be rejected; for, if this is not done, we may expect that not only all the property of our citizens in French ports will be seized, but that all our vessels without exception which can be met with will be taken. He hoped, therefore, if gentlemen are of opinion with him that the time for taking measures like the present is not yet arrived, that the reference would be refused. It would do infinite mischief. We ought not, he said, to show a spirit of this kind, until we are perfectly prepared to act. And as he believed the House is better calculated to judge of the propriety of thus changing the situation of the country, than any committee could be, he should not choose to ask the opinion of the Committee for the Protection of Commerce and the Defence of the Country what he should do in this case.

Mr. R. WILLIAMS observed, that the gentleman from South Carolina seemed to argue in favor of committing these resolutions, as if no time would be so proper for doing so as the present. But he believed this House would be equally capable of judging of this matter hereafter as at present, and could act upon them in future as well as now. Why, then, ought the House now to refer them, when even the gentleman from South Carolina says he is not prepared to vote for them; but that if he were called upon now to vote upon them, he should give his negative on the question?

It appeared to him, Mr. W. said, that the reference of these resolutions could have no other appearance than that of a challenge, and will doubtless produce the consequences which have been mentioned by the gentleman from Virginia. And however their vessels may have depredated upon our commerce, and suffered their citizens to plunder us at sea, they have not gone so far as to make it a national act to seize all the property of our citizens within their power. He was, therefore, opposed to this reference: for though, whenever the time of actual war shall arrive, (for it seemed as if it must arrive,) we shall think it necessary to do France all the mischief we can, yet he did not think it would be prudent to tell them we mean to injure them in this or that way beforehand.

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Mr. HARRISON believed, that to refer these resolutions would be to give them a degree of sanction; and as he looked upon the question as very important, he should call for the yeas and nays upon it. They were agreed to be taken.

Mr. GALLATIN said, it appeared to him that the committee to whom it is proposed to refer these resolutions might, without this reference, have brought the subject before the House, as they are appointed to consider whatever relates to the protection of commerce and the defence of the country. The reference must mean something more, therefore, than a mere instruction to them to consider the subject, because they have already those instructions given to them generally in their original appointment. What, he asked, could be obtained by a vote on this subject? He was at a loss to know. He could see no possible good to be derived from it. He wished, indeed, the committee to whom it is proposed to refer these resolutions, instead of doing the business committed to them by piecemeal, in the manner which they had adopted, had laid before the House at once a complete general plan of defence consistent with the present situation of the country. A majority of this House seem not only ready to take every defensive measure, but, in a certain degree, offensive measures also. This having been once determined, the committee might very well prepare such a plan. Such a plan would be more consistent and uniform, than if individual members were left to bring forward any measures which it may strike them as necessary to be taken. Of what use, Mr. G. asked, had been the reference of a set of resolutions made some days ago by Mr. SITGREAVES? No report has been made upon them. A part of them were of the same nature with these, and would authorize a report on this subject, if the committee had not the general power already mentioned.

So far as any conclusion could be drawn from the despatches of our Ministers, he confessed he had no great hopes of our negotiation with France being concluded in an effectual manner. He saw a kind of negotiation open between our Envoys and the French Minister for Foreign Affairs. He saw that the latter had asked for a loan; a demand inadmissible by our Envoys, since it was contrary to their instructions; a demand inadmissible from any instructions they might hereafter receive, for the sentiments of the Executive on that subject were well known; and, he would add, a demand inadmissible in its very nature, inadmissible in the opinion not only of this House, but of every individual in the House. So that, as long as that demand was insisted upon, no accommodation could be effected. But it must have been remarked, in the late despatches, that when our Envoys inquired of Mr. Talleyrand whether a loan of money was the ultimatum of the French Government, he did not choose to give a direct answer. This shows it to be possible that this demand may not be their ultimatum; and if not, as we have heard it reported, (though not officially,) that one of our Commissioners still remains in Paris, it would not be prudent to take any step that would defeat any treaty which might be in contemplation.

Mr. W. CLAIBORNE hoped the motion for postponement would prevail, for, though a reference of those resolutions would not be a complete sanction of them, he should consider it as a prelude to a speedy adoption. His observation on the past proceedings of the House justified this remark.

Mr. C. differed in opinion from the gentleman from North Carolina as to the power of Congress with respect to treaties. He believed Congress has a right to do away any treaty by a Legislative act; if not, he should think he lived under the most miserable Government upon earth.

What, said Mr. C., is the nature of the injuries which we have received from France? Have they not been wholly maritime? and have we not done all we can conveniently do for the defence of our commerce? Was not all our marine force already under such regulations as to be enabled to act to great advantage in the prevention of future outrages on our commerce? Why, then, shall we proceed to measures which must inevitably involve the country in war? Will the adoption of these resolutions give us a single ship or gun? No. Why, then, widen the breach between the two countries, by acting upon a measure more replete with impolicy than any act he ever saw introduced into that House. If it were adopted, it would go to the destruction of our commerce with several of the great commercial powers; for the moment war is declared with France, we shall also be at war with Spain and Holland, her allies. And when a war with Spain shall take place, the commerce of the Southern States and Western country will be immediately gone, and all our vessels in French, Dutch, or Spanish ports, will doubtless be confiscated. These, he said, were evils which he foresaw would attend the adoption of these resolutions, and he called upon the mover to show a single advantage which could be derived from their adoption. He hoped, therefore, the question would be postponed for a week; and if, at the end of that period, nothing shall have transpired which will make their adoption proper, he trusted they would then be farther postponed. If France is determined to have war with us, we must and will defend ourselves; but he was desirous that no act of ours should show that we ourselves wish for war.

Mr. SITGREAVES did not feel very solicitous whether the reference of these resolutions should or should not be postponed for one week, as he did not think so short a time would make any essential difference in the state of things; but, as he knew no good purpose that could be answered by the postponement, he should vote against it. He rose to offer his reasons in favor of the reference, generally.

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His colleague (Mr. GALLATIN) had fallen into two mistakes; he had said that these resolutions are of the same nature with those which he (Mr. SITGREAVES) had the honor, some days ago, to lay before the House; and that the committee, to which the resolutions are proposed to be referred, have, at present, all the power which this reference would give them. He was not correct, in the first place, in saying that these resolutions are of the same nature with those formerly submitted. The former propositions suggested a course of special reprisal, in cases limited and defined; the present propositions are for letters of general marque and reprisal, which modes of proceeding are essentially different in their nature and their incidents, in their theory and practice. The present propositions, also, recommend a declaration on the subject of the treaties, to which the former ones made no allusion. He believed his colleague to be equally mistaken in his other assertion, that the committee had already power to report to the extent of these resolutions, if they should deem it expedient. Their general power was to consider and report upon so much of the PRESIDENT'S Speech as relates to the protection of commerce and defence of the country; and this authority, when construed with relation to the Speech, cannot be considered as going beyond the measures of defence, strictly compatible with the neutral position in which we stood at the commencement of the session; and could not, without an express reference, justify the committee in proposing broad measures of hostility. This, however, is a question of form merely. If the committee have already the power, the reference proposed can do no mischief; if they have it not already, it remains to inquire whether they ought not to have it. He conceived they ought.

Mr. BALDWIN said, that nothing was more certain than that individual members could not vote to refer a motion to a committee, as was now proposed, unless at the time they feel themselves favorably disposed to the object of the motion, and vote to refer it to a committee to further that object, and to give it practicable shape and form. The gentleman who had just sat down should reflect, that referring petitions is a matter of course, and is established by usage as a respectful form of receiving and hearing the applications of our fellow-citizens. The introduction of a petition requires no second; but a motion made and seconded, is to be regarded as a step in the actual operations of the House. For himself he must say that, with respect to the present motion, it required no time for him to be ready to declare, that he was not now favorably disposed towards it, and could not, in any shape, now give it his countenance and support.

When he reflected on what they had done in the small space of a few weeks, and the course of measures which had been adopted by Congress since the receipt of the despatches from our Envoys, he thought they had come on, one upon another, in a succession sufficiently rapid. They must, in their nature, greatly affect the state of the country, perhaps more than was ever done before in so short a time. He thought it would be wise in the House, at present, to make a short pause, before they proceeded any further. It is a subject on which all Governments are apt to err, and to proceed too rapidly. Let us, said he, take a little time to ourselves, and give some time to our constituents, to look at our interests, and the state of our public affairs, in the new posture which we have given them in the course of a few weeks.

Our measures, he said, divided themselves into three classes; first, the internal defence of our country and of our sea-coast. On this there had been no difference of opinion; we had adopted, promptly, the same course of measures which had been adopted a few years ago, when we were threatened by another European power; we had fortified our ports and harbors, fixed row-galleys and other vessels on our coast, and ordered a draft of eighty thousand militia to hold themselves in constant readiness; and ordered a million of dollars to be expended, in procuring arms, cannon, and ammunition, to be placed all along the country in proper situations, that they may be put into use by such of our fellow-citizens as should be driven to the unfortunate necessity of defending themselves by arms. He had been glad to see such a perfect unanimity in those measures, and such a readiness, on all quarters, to vote even larger sums than were recommended in the reports for these purposes. This course of measures was founded on

principles merely defensive, and related only to our own country, and our own coast within cannon shot from our shores, which, by the law of nations, is called our territory; he trusted what had been done, accompanied with the spirit and resolution of our countrymen, would render our country impregnable.

The second course of measures, which he said had also been adopted, was extending our military preparations, and carrying our force beyond our own jurisdiction, on the main ocean, to defend our commerce by convoys, and to seek for and capture French privateers. On these the House had not been unanimous; they had appeared to be founded on more questionable policy; but, as the laws were passed, they would not only be cheerfully submitted to, but as vigorously supported as the others; it was now his duty to hope and expect that they would do more good than harm.

The third and last course of measures, was presented to our consideration by the present motion, to put the country immediately into an actual state of war. He must say he had been surprised to hear it; he thought it very ill-timed; he must express upon it his utter disapprobation. As had been already stated, the last official information from our Envoys, showed that our negotiations were still going on; and though the French Minister still insisted on a compulsory loan, which our Ministers justly declared to be a very inadmissible condition; yet, it ought to be noticed in the despatches that, when he was asked by Mr. GERRY, if they were to consider him as insisting on a loan as an ultimatum, he avoided the question, which gives reason to believe that, as things then stood, a loan or war was not an absolute inevitable alternative; it was such an alternative as he was not disposed to take, so long as it was avoidable. Though our situation has been, in many respects, bad for the year past, yet in a state of actual war it will be much worse. He never turned his attention to the part of the country where he lived, but that he felt himself compelled, by every principle of duty to those whom he represented, to address and to urge every consideration to avoid going to that extreme. They have been once almost totally destroyed by war; they know, from their distance and from past experience, that prompt and adequate protection never will be extended to them. He believed no honest man, deliberating merely for the public good, could take a view of the affairs of this country, of his own home, and of his friends, and think of going into a state of war, if it is possible to avoid it.

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Mr. DANA hoped the gentleman from Georgia did not want to inquire of his constituents whether they would consent to a treaty with France, in which we shall bind ourselves to pay a tribute. He trusted if that gentleman's constituents were thus to instruct him, he would refuse to obey their instructions. He hoped no member of this House could be prevailed with to set his hand to what would prove the death-warrant to the liberties of the country. Mr. D. thought, therefore, that no instructions were necessary on this subject; it is not a subject proper for deliberation in the American Congress, and no other terms of accommodation had been held out to us by that country. Does not Mr. Talleyrand, said Mr. D., complain of the Farewell Address of General Washington, and of the Speeches of Mr. Adams, and say that, before any treaty can be entered upon with us, some proof of our friendly disposition must be shown towards them, and that proof, he more than insinuates, must be a loan, or a tribute to the extent of our capacity to pay? If the despatches do not mean this, he did not know what they mean; and when Mr. Talleyrand was asked whether this was the ultimatum of the French Government, though he does not answer in direct terms, it is clearly implied that it is so.

What, then, said Mr. D., are our hopes relative to France? Does any body expect any thing from the terrible generosity of the Great Nation? Can we expect any thing from their justice, or, rather, have we not every thing to expect from their vengeance, if not prepared to meet it? Why do gentlemen tell the House of the danger of irritating France? He thought delicacy of this kind unnecessary, when speaking of a nation which has set at defiance every moral principle, which has taken and is determined to take our vessels, contrary to every principle of right. For himself, he felt no such delicacy; and, therefore, he was in favor of referring the resolutions under consideration. He did not think them so notoriously wrong that they are not fit subjects for deliberation.

Mr. J. WILLIAMS wished to say a few words in reply to the remark which had been made, that members who voted for the reference of resolutions, generally vote for the resolution itself. He believed he could produce twenty instances to the contrary, where references had been made, and the measures themselves afterwards have been disagreed to. He should give his vote in favor of the committal, because he wished to see the principles of these resolutions detailed; but he by no means pledged himself to vote for the passage of the bill.

The gentleman from Kentucky had spoken of two parties in this country, but that the decision upon a resolution of this morning proved that there is now a third party. He supposed the gentleman who had made the motion alluded to would have given some reasons why it ought to be agreed to; but not having done that, he voted against it.

[The SPEAKER reminded Mr. W. of the question.]

He then observed in reply to the remark of the gentleman from North Carolina (Mr. R. WILLIAMS) with respect to treaties, that it was clear from the writers on the laws of nations, that when one nation breaks a treaty, it is no longer obligatory on the other party. But treaties are nowadays done away, and power substituted in their place.

According to the opinion which gentlemen had themselves expressed, Congress had already agreed to form different measures, which would involve the country in war. If the present bill was passed (and he doubted not it would be) it will be the fifth, though the gentleman from Pennsylvania has said that this reference will give the Committee for the Protection of Commerce

and the Defence of the Country no new power, and of course, in his opinion, it could make no difference whether these resolutions are referred or not.

The yeas and nays were taken, and the question was negatived—42 to 41, as follows:

YEAS.—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, junior, James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, and John Williams.

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NAYS.—George Baer, jun., Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Stephen Bullock, Dempsey Burges, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, Joshua Coit, Thomas T. Davis, John Dawson, George Dent, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, John Milledge, Anthony New, Josiah Parker, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Robert Williams, and Matthew Locke.

Mr. SITGREAVES moved to postpone the consideration of these resolutions for two weeks, which motion was seconded by Mr. J. PARKER.

Mr. VENABLE inquired whether it was in order to take any further question upon the resolutions, the original motion having been negatived.

The SPEAKER answered, that the question on reference having been disagreed to, the resolutions themselves are now before the House.

Mr. VENABLE said, he had thought it was not in order to enter again upon the consideration of these resolutions, after the question which had been taken upon them. He knew that, to suffer them to lie on the table, could have no effect upon the people of this country, but it might have effect on the conduct of a foreign nation, as, when they heard such resolutions were under consideration, and of course likely to be adopted, they might anticipate their being carried into law, and proceed to seize the property of our citizens in their ports. If this motion were to be negatived, or withdrawn for the present, it might be brought forward again, whenever gentlemen shall think it ought to be adopted. He was as much opposed to the suspension, as he was against the reference of these resolutions.

Mr. MACON hoped the consideration of these resolutions would not be postponed. It was a little curious that a gentleman who was a few minutes ago against a postponement for a week, was now become an advocate for a postponement for a fortnight.

The SPEAKER said, the two questions were different.

Mr. RUTLEDGE rose to make this observation: That members opposed to the former motion for postponement, when a mere question of reference was under consideration, might with propriety be in favor of it when the question comes to be final upon the resolution.

Mr. R. wished gentlemen to use their victory with moderation. He believed the country was big with expectation that spirited measures would be entered into. He did not believe they approved of the half-measures which Congress took. Indeed, the countries which France had overcome, had been overcome chiefly from their taking half-measures while France had taken whole measures. He hoped the postponement would be agreed to; as if the next advices from our Envoys are not more favorable than the last were, he supposed there could be no hesitation in agreeing to have these resolutions carried into effect, and to reject them would have a mischievous effect.

Mr. LYON called for the yeas and nays on the question, but as one fifth of the members present did not rise in favor of it, the question was not carried.

Mr. DAVIS wished the mover to withdraw his resolution.

The question on postponement was put and carried—44 to 40.

### *Alien Enemies, &c.*

Mr. SEWALL, from the Committee for the Protection of Commerce and the Defence of the Country, reported the bill respecting alien enemies, newly modified, which was some days ago recommitted to the committee for that purpose. Also, a bill authorizing merchant vessels to defend themselves against French depredations. This bill authorizes the commanders and crews of merchant vessels to oppose the attack or search of any French armed vessel, and to repel any such search or attack by force, and to capture the vessels making such attack. All such captures to go—one-half to the owner of the vessel making the capture, and the other half to the captors. No armed merchant vessel to be suffered to clear out but such as is owned by citizens of the

United States, who, together with the commander, shall enter into bond that she shall not commit any outrage against the vessels of any nation at amity with the United States, and that said vessel shall not, during her voyage, carry any articles contraband of war.

A bill was received from the Senate entitled "An act concerning aliens." This bill goes to authorize the PRESIDENT OF THE UNITED STATES to order all such aliens as he shall deem dangerous to the United States to depart out of its territory; and if, after such order, any such alien shall be found at large, he shall be imprisoned for three years, and for ever after deprived of the privilege of becoming a citizen of the United States. And if any alien shall return to this country, after he shall have been sent out of it, he shall be imprisoned and kept to hard labor for life. And all commanders of vessels who shall arrive in any of the ports of the United States after the 1st day of July next, shall make a report in writing of all aliens who shall come passengers on board their vessels, giving an account of their age, profession, description of their person, &c., on pain of forfeiting three hundred dollars.

These bills were severally made the order of the day for Monday.

### **SATURDAY, June 9.**

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Mr. J. PARKER moved that the bills, with the amendments of the Senate to them, for altering the time of entering stills, and for the more effectual collection of the internal revenues, be referred to a select committee. Agreed to.

The House spent the remainder of the day principally in going through a very long bill to provide for the valuation of lands and dwelling houses, and the enumeration of slaves within the United States, previously to the laying a direct tax on them. The bill was gone through in the Committee of the Whole, without any debate of consequence, except as to what related to filling the blanks intended to contain the amount to be appropriated for carrying the law into execution, the salary of the Commissioners, Assessors, &c. The committee had leave to sit again. No other business of importance was done this day.

### **MONDAY, June 11.**

Mr. HARPER, from the Committee of Ways and Means, reported a bill providing for the enumeration of the inhabitants of the United States; which was committed for Wednesday.

### **WEDNESDAY, June 13.**

#### ***Direct Taxes.***

The bill providing for the valuation of houses and lands and the enumeration of slaves within the United States, was then read the third time, and upon the question being put "Shall this bill pass?"

Mr. DAVIS said, he was under the necessity of opposing the passage of this bill. No part of the community would contribute more cheerfully, to the extent of their ability, to the support of the General Government, than his constituents; but, from the knowledge he had of their situation; of the scarcity of circulating medium amongst them; and from the want of a market for their surplus produce, he could not give his vote in favor of a tax, which it would be with great difficulty they would be able to pay. The people of Kentucky, he said, had produce of every kind, in abundance, but they want a market for it. The Mississippi had lately promised a medium through which to transport it, but as yet, little advantage has been derived from it; and whenever a war shall take place, it may be expected that they would be deprived of the advantages which the free navigation of that river promises to the Western country.

Mr. D. said, when he came from home he did not think the coin in circulation, in Kentucky, amounted to \$10,000; and, since that period, he was informed that money had become still more scarce. If he thought the tax would be paid without great difficulty he would have cheerfully voted for it; but believing the contrary, he was constrained to give his vote against it.

Mr. W. CLAIBORNE said, the people of Tennessee are, in a great degree, similarly situated with those of Kentucky. Every one enjoyed the necessaries of life, but few of them experience those conveniences which flow from wealth. Money is a scarce article amongst them; and when he reflected upon the present situation of things, and the probability there is, that the avenue which was lately opened for the disposal of the surplus produce of the State would soon be closed, he feared his constituents would be illy able to pay this tax. But if, as the gentleman from North Carolina (Mr. MACON) on a former occasion suggested, he should be mistaken in this respect, and that the people of Tennessee are well able to pay the tax, he should rejoice in the event. Fearing the contrary, however, when he heard the people complaining of this grievous burden, he wished to have the consolation of saying, "I did not consent to this law, because I was of opinion that its operation would be particularly oppressive to the Western people."

Mr. GALLATIN observed, it would be extremely difficult to point out any mode of taxation which will not be inconvenient and oppressive, in some degree, for some part of the people to pay; and it must be expected that every mode which can be adopted, will bear more hardly on some parts of the community than on others. With respect to the tax on land, he must agree with the gentleman from Kentucky and Tennessee, that, from there being a less quantity of circulating medium in their States than any other State of the Union, it would probably fall heavier upon their

constituents than upon people of the Atlantic States. But there is one circumstance with respect to those States which ought to be taken into consideration, viz: that the tax for this year will be laid according to the old census taken seven or eight years ago; since which time, it is well known that the population of these States has more than doubled. Therefore, the inconvenience of paying this tax will be greatly lessened to these States by that circumstance. In the State of Tennessee, by the old census taken in 1791, there were only 35,000 inhabitants, whereas, by a census taken in that State by themselves, two years ago, the number exceeded 60,000.

Besides, it appeared to him that both the gentlemen assumed a principle by no means ascertained, viz: that the Mississippi will be shortly closed to the Western country. No people could suffer more by such an event than the people whom he himself represented. They stood precisely in the situation of the constituents of those gentlemen; and undoubtedly, if our present difficulties with France should produce a war with Spain, it would be extremely fatal to his constituents as well as theirs. But he knew of no reason for supposing this; and it would be wrong to legislate on a presumption that such will be the case.

In relation to this law, it was not formed, Mr. G. said, altogether to his wish; but it was as nearly so as he could get it, and it was necessary the money should be raised. He had opposed, as long and as forcibly as he was able, most of the measures which made the great expenses of the present session necessary; but a majority having determined that the expense shall be incurred, and that measures shall be taken which will necessarily decrease our present revenue, it has become the duty of every member to provide the means for paying the expense to be incurred, and for supplying the probable deficiencies of former revenues.

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If the expense is to be provided for, how is it to be done? It must be either by taxation or by loans. Indeed, it is probable that Congress will be obliged to resort to loans, even during the present session; but certainly it is their duty, as far as they are able, to provide for the public expenses, without going into measures which will increase the public debt. Our choice lies, therefore, between loans and taxation; and however inconvenient it may be to the people to pay taxes, he should certainly resort to taxes rather than loans. And if the money is to be raised by taxes, to what objects can we turn our attention? Congress must have recourse to internal revenue, or an increase of duty on the importation of some of the necessaries of life. Indeed, after turning his attention very seriously to the subject, he could not find how any considerable revenue could be raised, but by means of a direct tax on land and houses, or a tax on salt. He did not think any other could be relied upon; and, between the two, he believed it would be infinitely better, both for the United States and his constituents, to lay a tax on land and houses than on salt. The tax on land and houses will be laid according to the value of the property; and though there is less circulating medium in the back country, which is thinly settled, than in the larger towns, the property in those parts will be estimated at a much lower rate, and of course the people will have a smaller proportion of the tax to pay; and he thought it far preferable to lay a tax which would fall, in a great degree, upon persons according to their wealth, than one which would operate as a *poll tax*, (as a tax on salt would do,) according to their number.

Mr. DAVIS said, he believed he could prove to the gentleman from Pennsylvania (Mr. GALLATIN) that his conclusions with respect to the ability of the people of the State of Kentucky to pay this tax, were not altogether correct; and that the number of the people inhabiting the State now, being double what it was when the last census was taken, will afford them no relief. For, if there were \$10,000 in circulation in the State, when there were only 30,000 inhabitants, and no more, now there are 150,000—the tax would fall no lighter now than it would have fallen then. How, it might be inquired, does it happen that, though the population is so greatly increased, no increase should have been made in the quantity of circulating specie? It happens thus: Men who emigrate from the Atlantic States to this country, seldom bring much money with them; for, whatever they may have when they set out, it is expended on their journey, or paid for land to a single person when they reach us, so that none of their money comes into general circulation and though the people are able to raise plenty of produce, they are not able to exchange it for money. It is true, the more inhabitants they get, the more the general property of the State is increased, but it did not increase the circulating medium. He did not believe there is now so much money in circulation as there was when the census was taken. There was then an army there, and produce sold for a good price; but since a peace was made with the Indians, money has been constantly draining off from the State, to pay the debts which the merchants of that State had contracted whilst trade was brisk in this and other cities.

Mr. S. SMITH did not think the fears of the gentlemen from Kentucky and Tennessee would be realized. It is no doubt true that the quantity of circulating specie in Kentucky had diminished since the peace with the Indians; but it is also true that the spring trade this year from Kentucky by the Mississippi has been both great and profitable. But gentlemen suppose, if we have a war with France, we shall also be at war with Spain, and our intercourse by that river will be cut off. But the interest of Spain will be against this; for in case of war, there will be great difficulty in getting flour to the Havana from the Atlantic ports, as our West India trade will be cut off, and they will have to depend upon a supply by the Mississippi. Besides, if produce be so much cheaper in the Western country than in the Atlantic States, as it has been stated to be, it will become the interest of neutrals in the Atlantic cities, to make remittances by produce from that country to the Havana. And if Spain should be drawn into the war, there would be other modes of the people of those States disposing of their produce. He did not think, therefore, gentlemen from that country need be so much alarmed as they appeared to be.

Mr. J. WILLIAMS had always been opposed to every system of direct taxes; but as a majority of the House had agreed to call forth the resources of the country by this means, he must give his vote

for this bill. He was astonished to find the gentlemen from Kentucky and Tennessee opposing this bill, when so much of the money of the General Government had been expended in that country. They must acknowledge their States have had their portion of specie from the Treasury of the United States. An act had indeed been passed during the present session for paying a company of militia for a certain expedition in Tennessee, which amounted to nearly one fourth of the whole sum required from that State. He believed some of the troops of the United States are also now there, and likely to continue, so that they are constantly receiving supplies of cash from the Treasury of the United States. Besides, it ought to be considered that this tax will fall upon unimproved, as well as improved land, many of the owners of which, he supposed, lived out of that State, which would reduce the portion of the tax to the State. The district in which he lived would pay more tax than the whole State of Tennessee. He knew the tax would be collected in some places with difficulty, and more so, since the bill had undergone a change which had thrown the tax upon land more than it would otherwise have fallen.

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But, whatever difficulty may attend the collection of this tax, when we see the ruinous effects of public debt in other countries, we ought to be cautious how we make extensive loans, and endeavor to draw forth the resources of the country, to meet any of the expenses which we may have to encounter.

Mr. VARNUM should vote against this bill. He had always thought, since the establishment of the present Government, that there would be no necessity for resorting to direct taxes, except in case of our being engaged in war. He believed the measures already taken would not require a direct tax if no further expenses were contemplated. But he now believed a majority of the Government of the United States are determined on war, and he would, on that account, have given his vote for the bill, if the tax was proposed to be laid on just and equal principles. It was his opinion, that every species of property ought to be taxed, as well as houses and land. So far from this being the case, he believed that between one third and one half of the property taxed by the State Legislatures, in their system of direct taxes, would, by the present plan, be excused altogether from tax. Some of the most wealthy people in the Union would, by this means, be untaxed, in a great degree, while persons who hold a small property in houses or land, will bear the burden of it; and not only of this tax, but to any further extent to which the Government may have occasion to carry it.

Mr. T. CLAIBORNE had opposed many of the measures which made this tax necessary; but a majority of Congress having determined upon a certain course of measures, however contrary they may be to his opinion, he should cheerfully submit to them, and vote in favor of this bill.

The people of Virginia, if they must be taxed, wished to be taxed in a direct way, and he doubted not this tax would be paid with alacrity. They always had been, and would continue to be, he had no doubt, prompt in their obedience to the laws of the General Government.

The yeas and nays were then taken upon the passing of the bill; it was passed—69 votes to 19.

*Resolved*, That the title be, "An act to provide for the valuation of lands and dwelling houses, and the enumeration of slaves, within the United States."

## THURSDAY, June 21.

### *Relations with France.*

In the course of the sitting, the following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

While I congratulate you on the arrival of General Marshall, one of our late Envoys Extraordinary to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter received by him from Mr. Gerry, the only one of the three who has not received his congé. This letter, together with another from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will show the situation in which he remains, his intentions and prospects.

I presume that, before this time, he has received fresh instructions, (a copy of which accompanies this message,) to consent to no loan, and therefore the negotiation may be considered as at an end.

I will never send another Minister to France, without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

UNITED STATES, *June 21, 1798.*

PARIS, *April 16, 1798.*

MY DEAR SIR: This, I expect, you will receive by my colleague, General Marshall, who carries with him the last letter of Mr. Talleyrand to the American Envoys, and their answer. On the day when we sent the answer, I received a letter from the Minister, a copy of which and my answer is enclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them.



Indeed, I expected my passport with my colleagues, but am informed the Directory will not consent to my leaving France; and to bring on an immediate rupture, by adopting this measure contrary to their wishes, would be, in my mind, unwarrantable.

The object of Mr. Talleyrand, you will perceive, was to resume our reciprocal communications, and again to discuss the subject of a loan. I thought it best, in my answer, not merely to object to this, but to every measure, that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear sir, to support your Administration, and have brought myself into a predicament,<sup>[36]</sup> which you must assist me to extricate myself from, by appointing some others to supply the places of myself and colleagues, if a further progress in this business should be found practicable.

I have only a moment to add my best respects to your lady, and my assurance of the most sincere and respectful attachment. My dear sir, yours, sincerely,

E. GERRY.

The PRESIDENT OF THE UNITED STATES.

### [TRANSLATION.]

PARIS, *the 4th Germinal, 6th year of the French Republic, one and indivisible, April 3, 1798.*

The Minister of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French Republic.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventose last, and the obstacles which their known opinions have interposed to the desired reconciliation, to quit the territory of the Republic; on this supposition, I have the honor to point out to you the 5th or the 7th of this decade, to resume our reciprocal communications upon the interests of the French Republic and the United States of America.

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Receive, I pray you, the assurances of my perfect consideration.

CH. MAU. TALLEYRAND.

### MONDAY, June 25.

#### *Alien Enemies.*

On motion of Mr. S. SMITH, the House went into a Committee of the Whole on the bill respecting alien enemies. The Chairman stated, that when this bill was formerly under consideration, a motion was made to strike out the first section, which was negatived. He proceeded to read the second.

Mr. OTIS hoped the committee would rise. He made this motion with a view of moving, in the House, a postponement of the consideration of this bill until the next session of Congress. He did not know that there was any immediate necessity for it, the PRESIDENT having sufficient power over aliens by the bill already passed.

Mr. GALLATIN said, he did not expect a motion of this kind. If any bill respecting aliens was necessary, it was certainly a bill of this kind against alien enemies; but a bill having been passed against aliens generally, the gentleman from Massachusetts appears now to be willing to pass by the bill against alien enemies. This gives a new coloring to the business, and it seems as if gentlemen were more desirous of guarding against alien friends than alien enemies. It is true, if this bill is not passed, the PRESIDENT OF THE UNITED STATES will have the power of removing from the country all those aliens whom he may think it necessary and proper to be removed, whether they are alien enemies or alien friends. But, if alien enemies are really dangerous, it cannot be supposed that the PRESIDENT can remove them all. This bill, therefore, provides in what manner they may be laid under certain restraints by way of security.

Mr. OTIS interrupted Mr. G. to say he would withdraw his motion. He made it, because he expected the bill would have been objected to by the gentleman from Pennsylvania and his friends. Since they were agreeable to pass it, he had no objection to it.

The committee rose and reported the bill, and it was ordered to be read a third time to-morrow.

### THURSDAY, July 5.

#### *Punishment of Crime.*

#### SEDITION.

A bill was received from the Senate in addition to the act for the punishment of certain crimes against the United States, which was read the first time.

[This bill provides, that if any persons shall unlawfully combine or conspire together, with intent to oppose any measures of the Government of the United States, or to impede the operation of any law, or to intimidate or prevent any person holding an office under the Government from exercising his trust. And if any person shall, by writing, printing, or speaking, threaten such officer with any damage to his character, person, or estate, or shall counsel, advise, or attempt to procure any insurrection, riot, &c., whether such attempt shall have the desired effect, or not, he shall be deemed guilty of a high misdemeanor, and punished by a fine, on conviction, not exceeding \$5,000, and by imprisonment not less than six months, nor exceeding five years. And if any person shall, by any libellous or scandalous writing, printing, publishing, or speaking, traduce or defame the Legislature of the United States, by seditious or inflammatory declarations or expressions, with intent to create a belief in the citizens thereof, that the said Legislature in enacting any law, was induced thereto by motives hostile to the constitution, or liberties and happiness of the people thereof; or shall in manner aforesaid, traduce or defame the PRESIDENT OF THE UNITED STATES, or any Court, or Judge thereof, by declarations tending to criminate their motives in any official transaction, the persons so offending, being convicted shall be punished by a fine not exceeding \$2,000 and by imprisonment not exceeding two years.]

Mr. OTIS moved that it be read a second time.

Mr. HARRISON called for the reading of the amendments to the constitution.

The SPEAKER said, the only motion in order, if objections were made to the second reading of the bill, would be to reject the bill.

Mr. LIVINGSTON made that motion.

Mr. ALLEN.—I hope this bill will not be rejected. If ever there was a nation which required a law of this kind, it is this. Let gentlemen look at certain papers printed in this city and elsewhere, and ask themselves whether an unwarrantable and dangerous combination does not exist to overturn and ruin the Government by publishing the most shameless falsehoods against the Representatives of the people of all denominations, that they are hostile to free Governments and genuine liberty, and of course to the welfare of this country; that they ought, therefore, to be displaced, and that the people ought to raise an *insurrection* against the Government.

In the *Aurora*, of the 28th of June last, we see this paragraph: "It is a curious fact, America is making war with France for *not* treating, at the very moment the Minister for Foreign Affairs fixed upon the very day for opening a negotiation with Mr. GERRY. What think you of this, Americans!"

Such paragraphs need but little comment. The public agents are charged with crimes, for which, if true, they ought to be hung. The intention here is to persuade the people that peace with France is in our power; nay, that she is sincerely desirous of it, on proper terms, but that we reject her offers, and proceed to plunge our country into a destructive war.

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This combination against our peace is extensive; it embraces characters whose stations demand a different course. Is this House free from it? Recollect what a few days ago fell from the very gentleman (Mr. LIVINGSTON) who now so boldly and violently calls on us to reject this bill at the instant of its coming before us, without suffering it to be read a second time. The gentleman proposed a resolution requesting the PRESIDENT to instruct Mr. Gerry to conclude a treaty with the French Government; and declared that "he believed a negotiation might be opened, and that it was probable a treaty might be concluded which it would be honorable to the United States to accept. He did not wish to frustrate so happy an event by any punctilio, because they had refused to treat with three Envoys, but were willing to treat with one." This is in the very spirit of the malicious paragraph I just now read. It is pursuing the same systematic course of operations. The gentleman also said, (what has not been published, however,) that "the commission of the Envoys being joint and several, Mr. Gerry had unquestionably ample powers to treat alone." Here are circumstances of what I call a *combination against the Government*, in attempts to persuade the people of certain facts, which a majority of this House, at least, and of the people at large, I believe, know to be unfounded. Who can say that Mr. Gerry has power to treat alone, or that the French Government is willing to treat with him on fair and honorable terms? Gentlemen do not believe either, let them say what they will. Does such a commission empower one to exercise the functions of the whole in opposition to the opinions of his colleagues? It would produce the most inextricable confusion. The severalty of the powers is well known always to be a provision against such accidents as may prevent or disable a part of the Commissioners from acting. I mention these things to show what false ideas gentlemen endeavor to impress the public mind with on this subject.

The gentleman (Mr. LIVINGSTON) makes his proclamation of war on the Government in the House on Monday, and this infamous printer (Bache) follows it up with the tocsin of insurrection on Tuesday. While this bill was under consideration in the Senate, an attempt is made to render it odious among the people. "Is there any alternative," says this printer, "between an abandonment of the constitution and resistance?" He declares what is unconstitutional, and then invites the people to "resistance." This is an awful, horrible example of "the liberty of opinion and freedom of the press." Can gentlemen hear these things and lie quietly on their pillows? Are we to see all these acts practised against the repose of our country, and remain passive? Are we bound hand and foot that we must be witnesses of these deadly thrusts at our liberty? Are we to be the unresisting spectators of these exertions to destroy all that we hold dear? Are these approaches to revolution and Jacobinic domination, to be observed with the eye of meek submission? No, sir, they are indeed terrible; they are calculated to freeze the very blood in our veins. Such liberty of the press and of opinion is calculated to destroy all confidence between man and man; it leads to

a dissolution of every bond of union; it cuts asunder every ligament that unites man to his family, man to his neighbor, man to society, and to Government. God deliver us from such liberty, the liberty of vomiting on the public floods of falsehood and hatred to every thing sacred, human, and divine! If any gentleman doubts the effects of such a liberty, let me direct his attention across the water; it has there made slaves of thirty millions of men.

At the commencement of the Revolution in France those loud and enthusiastic advocates for liberty and equality took special care to occupy and command all the presses in the nation; they well knew the powerful influence to be obtained on the public mind by that engine; its operations are on the poor, the ignorant, the passionate, and the vicious; over all these classes of men the freedom of the press shed its baneful effects, and they all became the tools of faction and ambition, and the virtuous, the pacific, and the rich, were their victims. The Jacobins of our country, too, sir, are determined to preserve in their hands the same weapon; it is our business to wrest it from them. Hence this motion so suddenly made, and so violently supported by the mover, to reject this bill without even suffering it to have a second reading; hence this alarm for the safety of "the freedom of speech and of the press."

Mr. HARPER said, if, in voting against the rejection of this bill, his vote should be considered as giving his assent to all its provisions, it would be misunderstood. He thought it right and necessary to make a law on the subject; but not exactly such a law as the present, his particular objections to which he should make known when the subject was fully before him. He should vote against a rejection of the bill, because to vote for it, would be to declare that no law ought to be passed to restrict seditious writing and speaking, which was not his opinion.

He had often heard in this place, and elsewhere, harangues on the liberty of the press, as if it were to swallow up all other liberties; as if all law and reason, and every right, human and divine, was to fall prostrate before the liberty of the press; whereas, the true meaning of it is no more than that a man shall be at liberty to print what he pleases, provided he does not offend against the laws, and not that no law shall be passed to regulate this liberty of the press. He admitted that a law which should say a man shall not slander his neighbor would be unnecessary; but it is perfectly within the constitution to say, that a man shall not do this, or the other, which shall be injurious to the well-being of society; in the same way that Congress had a right to make laws to restrain the personal liberty of man, when that liberty is abused by acts of violence on his neighbor.

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Mr. H. knew the liberty of the press had been carried to a very considerable extent in this country. He had frequently seen private character vilely calumniated; he had himself come in for a share of abuse, but he had always despised the base calumniators, believing that a man's propriety of conduct would always be sufficient to shield him against these slanders. When he saw the PRESIDENT OF THE UNITED STATES and the Government of the Union defamed, he still despised them, and he believed also that the people were not affected by them, because he saw they did not rise in insurrection against the Government; and if they had not believed that all the things which were said respecting the Government were vile falsehoods, he should have thought the people the most wretched fools, had they not risen against it.

Mr. NICHOLAS was sorry this motion had been made, because it prevents members from going into the modification of the bill, which he was convinced would completely exemplify the folly of the principle; but until gentlemen saw what form the bill was finally to take, it was impossible to speak with precision on its merits; because if the declarations of the gentlemen from Connecticut and South Carolina were attended to, it would be found they are most afraid of the speeches and letters of gentlemen in this House. They acknowledge, however, they cannot prevent members from speaking what they please here. What, then, is their aim? Do they mean to prevent the publication of their sentiments to their constituents and to the world? If this was not their intention, he could not tell what it was.

There was one general view of this subject, which Mr. N. took to be the most momentous that this country ever saw. He was ready to go with gentlemen into measures for affording a liberal support to the war, which it appears must be gone into; but he was not ready to create a *domestic tyranny*. The people of this country are competent judges of their own interests, and he was desirous that the press should remain perfectly free to give them every information relative to them; and to restrict it, would be to create a suspicion that there is something in our measures which ought to be kept from the light. It was striking at the root of free republican Government, to restrict the use of speaking and writing. He wished, however, to see the bill put into such a shape as the friends of it themselves might approve.

Mr. LIVINGSTON said, after receiving the chastisement of the gentleman from Connecticut on one cheek, he, like a good Christian, had turned the other to the gentleman from South Carolina, and received the stripes of both. He expressed his acknowledgments to these gentlemen, however, if not for their chastisement, for the insight which they had given the House into this bill. They have said, its design is not only to restrict the liberty of the press, which is secured by the constitution, but the liberty of speech on this floor. The gentleman from South Carolina did not say explicitly that he wished this; but he said he was regardless of what was said in the public papers, either of private or personal slander, or of a slander on the Government, until he heard a certain speech delivered in this House; and though he said he did not intend to restrict the liberty of speech in this House, he must have had something of the kind in view. [Mr. HARPER said it was not his intention to restrict the freedom of speech on that floor, but the consequences of it out of doors.] Then, said Mr. L., he will either restrict the members from speaking, or, in some way, prevent the people from knowing what has been said. How is this to be done? By shackling newspapers, and preventing that free communication of sentiment which has heretofore been

expressed on public topics.

The gentleman from Connecticut had been pleased to read a quotation from some observations which he had made on a former occasion, which that gentleman thought highly blamable. Mr. L. said, what he had read he avowed to be his sentiments. He avowed them with pride, and he trusted he should always avow them with pride. Nor could he see how acts made contrary to the constitution could be binding upon the people; unless gentlemen say Congress may act in contravention to the constitution. [Mr. OTIS asked who were to be the judges?] Mr. L. answered, the people of the United States. We, said he, are their servants, when we exceed our powers, we become their *tyrants!*

This is one object of complaint; the other is against newspaper publications. The gentleman from South Carolina has said, that provided the law is clear and well defined, and the trial by jury is preserved, he knew of no law which could infringe the liberty of the press. If this be true, Congress might restrict all printing at once. We have, said he, nothing to do but to make the law precise, and then we may forbid a newspaper to be printed, and make it death for any man to attempt it!

If this be the extent to which this bill goes, it is not only an abridgment of the liberty of the press, which the constitution has said shall not be abridged; but it is a total annihilation of the press. Were he then to withdraw his motion, he should consider himself guilty of treason; by his consent, so unconstitutional a measure should not progress an inch. However unsuccessful he might be, he would oppose it in every stage.

Mr. OTIS supposed the opposition to this bill arose chiefly from prejudice, as gentlemen could not be so well acquainted with the bill from hearing it once read, as to say there are no parts of it which ought to become law. He had not nicely examined the merits of this bill, but he heard that it contained several important provisions, and he should certainly be opposed to a rejection of it without a perusal. To vote for such a motion, would be to say, we will not examine the bill; and yet he believed there was nothing in it contrary to the common law of the several States of the Union.

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Mr. MACON had no doubt on his mind that this bill was in direct opposition to the constitution; and that if a law like this was passed, to abridge the liberty of the press, Congress would have the same right to pass a law making an establishment of religion, or to prohibit its free exercise, as all are contained in the same clause of the constitution; and, if it be violated in one respect, it may as well be violated in others. Several laws had been passed which he thought violated the spirit, but none before this which directly violated the letter of the constitution; and, if this bill was passed, he should hardly think it worth while in future to allege against any measure that it is in direct contradiction to the constitution.

Laws of restraint, like this, Mr. M. said, always operate in a contrary direction from that which they were intended to take. The people suspect something is not right, when free discussion is feared by government. They know that truth is not afraid of investigation.

If, said Mr. M., the people are so dissatisfied with Government as some gentlemen would have it believed, but which he did not credit, by passing a law like the present you will force them to combine together; they will establish corresponding societies throughout the Union, and communications will be made in secret, instead of publicly, as had been the case in other countries. He believed the people might be as safely trusted with free discussion, as they whom they have chosen to do their business.

It was a most extraordinary thing, Mr. M. said, that at a time like this, when some gentlemen say we are at war, and when all believe we must have war, that Congress are about to pass a law which will produce more uneasiness, more irritation, than any act which ever passed the Legislature of the Union.

No gentleman, in support of the bill, has gone into the constitutional question; no one has shown what part of the constitution will authorize the passage of a law like this. He believed none such could be adduced.

The gentleman from Massachusetts (Mr. OTIS) has said, this bill is conformable to the common law. He knew persons might be prosecuted for a libel under the State Governments; but if this power exists in full force at present, what necessity can there be for this bill?

Mr. McDOWELL was in hopes that when the third article of the amendments to the constitution had been read, that the unconstitutionality of this bill would have been so evident, that it would have been rejected without debate.

Mr. McD. was sorry that the gentleman from Connecticut should have thought it necessary to have taken up so much of the time of the House by reading paragraphs from newspapers, which every body had seen; but it might have been expected after the gentleman had taken so much pains to vilify and abuse the printer of one of the papers of this city, a citizen of respectable character and connections, that he should have taken at least some notice of another, called the British printer, who boasts of being a subject of King George, and who is generally supposed to be in the pay of the British Minister—whose paper contains more libels and lies than any other in the United States, and who, notwithstanding, is countenanced by characters whom he was sorry to see have any connection with such a man; whose constant daily business it is to abuse, and render ridiculous, every member of our Government who does not in every thing fall in with the British views.

As to what had been said with respect to the circular and other letters of members which have

been published, he had seen some of them and heard of others. It was not any thing which the gentleman from South Carolina could say, which would prevent him from speaking and writing his sentiments freely. The gentleman from South Carolina said he had seen a letter in the papers the signature of which he knew. He should be glad to know where he saw the signature to know it? He had seen a letter in Fenno's paper, signed *McDowell*, followed by some violent strictures on the letter, and on the author. The letter he owned to be his, but the insinuations contained in the observations upon it were as false as they were malicious.

Mr. HARPER said, he knew the gentleman wrote the letter in question; but he would assure him he did not see it under seal, nor did he break the seal, or write the strictures upon it.

Mr. GALLATIN wished that the bill had been committed before any debate had taken place, as in its present stage, any observations on details susceptible of amendment would be out of order; and he must now confine himself to the general question "Does the situation of the country, at this time, require that any law of this kind should pass? Do there exist such new and alarming symptoms of sedition, as render it necessary to adopt, in addition to the existing laws, any extraordinary measure for the purpose of suppressing unlawful combinations, and of restricting the freedom of speech and of the press?" For such were the objects of the bill, whatever modifications it might hereafter receive.

The manner in which the principle of the bill had been supported, was perhaps more extraordinary still than the bill itself. The gentleman from Connecticut, (Mr. ALLEN,) in order to prove the existence of a combination against the constitution and government, he communicated to the House—what? a number of newspaper paragraphs; and even most of those were such as would not be punishable by the bill as it now stands. The object of that gentleman in wishing a bill of this nature to pass, extended far beyond the intention of the Senate who had sent down this bill; far beyond, he would venture to say, the idea of any other member upon this floor, besides himself. His idea was to punish men for stating facts which he happened to disbelieve, or for enacting and avowing opinions, not criminal, but perhaps erroneous. Thus one of the paragraphs most obnoxious to the gentleman from Connecticut, was that in which the writer expresses his belief that Mr. Gerry may yet make a treaty with the French Government, his powers being sufficient for that purpose. [Mr. ALLEN said, his charge was against persons making this assertion, when they knew it to be unfounded.] Mr. G. said, he did not understand the gentleman's explanation. He now says that the act he condemns is the assertion of a fact, which may be true, but which the writer himself disbelieves; and thus he wished to punish such men as, according to his caprice, he may suppose guilty of expressing opinions not consonant with their own sentiments. For by what rule of evidence could he discover and know what was really the writer's belief? But, to return, was there any thing criminal in that paragraph? It asserted that Mr. Gerry had powers sufficient to treat. The gentleman from Connecticut denies this to be true. Mr. G. would aver that it was an undeniable fact, as appears evidently from the documents now on the table. They showed that the powers given to the Envoys were joint and several. And, if Mr. Gerry had powers to treat, how could it be criminal to say that he might treat? Or supposing the writer of the paragraph to have said, that he believed Mr. Gerry would treat, could the opinion be charged with any thing but being erroneous? When a paragraph of this nature was held out as criminal, what writings, what opinions could escape the severity of the intended law, which did not coincide with the opinions, and which might counteract the secret views of a prevailing party?

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The gentleman from Connecticut had also quoted an extract of a letter said to be written by a member of Congress from Virginia, and published in last Saturday's *Aurora*. The style and composition of that letter did the highest honor to its writer. It contained more information and more sense, and gave more proofs of a sound understanding and strong mind, than ever the gentleman from Connecticut had displayed, or could display on this floor. So far he would venture to say, although he had given but a cursory reading to the letter, and he was altogether at a loss to know what was criminal in it, though he might easily see why it was obnoxious. Was it erroneous or criminal to say that debts and taxes were the ruinous consequences of war? Or that some members in both Houses of Congress uniformly voted in favor of an extension of the powers of the Executive, and of every proposed expenditure of money? Was it not true? Gentlemen of that description avow that, in their opinion, the Executive is the weakest branch of government; and they act upon the ostensible principle that, on that account, its influence and powers must be increased. Look at the laws passed during this session. Look at the alien bill, at the provisional army bill, look at the prodigious influence acquired by so many new officers, and then deny that the powers of the Executive have not been greatly increased. As to the increased rate of expenditure, and the propensity of these gentlemen to vote money, they would not themselves deny it. Was it criminal to say that the Executive is supported by a party? when gentlemen declared that it must be supported by a party. When the doctrine had been avowed on this floor that men of a certain political opinion, alone ought to be appointed to offices; and when the Executive had now adopted and carried into practice that doctrine in its fullest extent?

Mr. DANA did not propose to enter into any controversy respecting the honor which some gentlemen seemed disposed to arrogate to themselves, on account of certain sentiments which they have avowed. If any members of that House were ambitious of being distinguished as heralds of calumny and apostles of insurrection, it might serve to show how incorrect were their ideas of what is truly honorable.

The bill has two objects in view—it proposed to punish conspiracies and calumnies against the Government. Against this bill, the freedom of speech and of the press has been insisted on; and the bill has been condemned as violating one of the articles adopted as amendments to the

constitution. Why is the gentleman from Pennsylvania so very anxious on the subject? Or is it abridged by a law to restrain lying? Could the framers of the constitution intend to guarantee, as a sacred principle, the liberty of lying against the Government? What do gentlemen understand by "the freedom of speech and of the press?" Is it a license to injure others or the Government, by calumnies, with impunity?

Let it be remembered, that the uttering of malicious falsehoods, to the injury of the Government, is the offence which it is now intended to restrain; for, if what is uttered can be proved true, it will not, according to this bill, be punished as libellous. What, then, is the rational, the honest, the constitutional idea of freedom of language or of conduct? Can it be any thing more than the right of uttering and doing what is not injurious to others? This limitation of doing no injury to the rights of others, undoubtedly belongs to the true character of real liberty. Indeed, can it, in the nature of things, be one of the rights of freemen to do injury? Let gentlemen consult any writer of established reputation on this subject; let them examine the constitution of their own favorite "terrible" Republic! they will not find the ideas of liberty extended to that indefinite latitude which they advocate on this floor.

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However, if there are gentlemen who seriously and conscientiously believe that it would be violating the constitution to restrain abuses of the press, by punishing the guilty; if there are gentlemen who believe that malicious calumnies against the Government ought to be uttered and published with impunity, such gentlemen ought certainly not to consent to act further upon this subject. Mr. D. was of a different opinion. He believed that the editor of a newspaper, like the writer of a public history, in the execution of his office, should dare to utter what is true, and dread to utter any thing that is false. Considering, therefore, that the liberty of lying, the privilege of vice, is what is truly intended to be corrected by this bill, how is it possible that gentlemen should appear so anxious to excite clamor against it? For himself, Mr. D. wanted not the liberty of calumny or of conspiracy, and was in favor of the principle of the bill.

The question on rejecting the bill, was taken by yeas and nays—yeas 36, nays 47, as follows:

YEAS.—David Bard, Lemuel Benton, Thomas Blount, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, George Baer, jr., Bailey Bartlett, Jas. A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, and Peleg Wadsworth.

## FRIDAY, July 6.

### *Abrogation of Treaty with France.*

Mr. SEWALL called up the bill from the Senate, declaring the treaty between France and the United States void, and of no effect.

Mr. ALLEN wished the resolution that he laid upon the table yesterday, respecting the condition and relation of this country with respect to France, first to be taken up.

Mr. SITGREAVES thought it would be proper first to go into a consideration of this resolution. We are, said he, now in a state of war. The House know that, by the distribution of powers under this Government, it is only competent for Congress to declare the country in war; therefore, until that declaration is made by this department, the Executive and Judiciary cannot act in the same way as if the country was at war. In other countries, the Executive Department can create war; but here it cannot. If it shall be considered expedient to declare war in consequence of the repeated aggressions and injuries we have received from the French Republic, and the hostility urged against us, and the necessity there exists of making defence against them, there can be no occasion for declaring the treaties void; because, if war is declared, it is the major proposition, and, of course, includes all the minor propositions. If discussed at all, therefore, it would be proper to discuss the major proposition first. He supposed it was a subject on which the minds of members were made up. Whether, therefore, the vote is affirmative or negative, it would be best to declare, in the first instance, the state of the country.

Mr. NICHOLAS hoped, if we are to come to this question of war at all, it might be so taken up as to occupy the least time of the Legislature. The question of setting aside the treaties is evidently included in the other; he hoped, therefore, the proposition of the gentleman from Connecticut, if

to be taken up at all, would have a preference.

Mr. SEWALL said, if the question of annulling the treaties with France was included in the resolution of the gentleman from Connecticut, he should think it ought first to be taken up; but he did not think this was the case. The gentleman from Connecticut wishes a committee to state what is our relation with respect to the French Republic. How could we say what our relation is, except we determine what is our relation with respect to the treaties subsisting between the two countries? He took the two things to be perfectly distinct. The gentleman from Pennsylvania (Mr. SITGREAVES) seems to conceive that the question whether it will be proper to make a declaration of war against France, is included in this resolution, as he could not be so anxious for the declaration of an historical fact, which, in his opinion, the report on this resolution could only be; for gentlemen could not consider that the constitutional power, placed in Congress to declare war, meant no more than a mere report, whether or not the country is in war. A number of acts have been done, which are indicative of war, and if a report was made as to our situation with the French Republic, it must be reckoned at least a state of hostility. But this would be doing nothing. If it was the intention of any gentleman to propose a declaration of war, such a motion would supersede the necessity of taking up the bill from the Senate; but, as the resolution of the gentleman from Connecticut did by no means go to this, he hoped the bill he had mentioned would be first considered. If he were to give an opinion on the subject, it would be clearly against declaring war at present. As to the Judicial Courts, they would find no difficulty in acting according to the situation of things, without troubling themselves with the nice distinctions which gentlemen seemed inclined to make between a state of war, and a state of hostility.

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Mr. GALLATIN wished to know, if the House were to go into a Committee of the Whole on the bill from the Senate, whether a declaration of war might not be moved as an amendment to the bill. To his mind, there seemed to be but little difference between saying the treaties are at an end, and declaring war. If such a motion could be received, it would be desirable to know the will of the House upon it. The shortest way of coming at this question would be the best. He wished the SPEAKER to say whether he thought such a motion would be in order.

[No answer was given to the inquiry.]

Mr. ALLEN considered it best to act always with frankness. He wished, by his resolution, that a committee should inquire into, and declare to the House, and to the country, the true state of our situation with respect to France; and if they should report any measures which should supersede the bill from the Senate, it would be the most fair and open way of getting at the business.

The question on taking up the bill from the Senate was put, and negatived—41 to 35.

Mr. ALLEN then called up his resolution. It had been said that our negotiation with France is yet carrying on, which he denied, and he wished this resolution to go to a numerous committee to report as to that fact, and as to our situation generally with respect to France.

Mr. HARRISON hoped the House would go into a Committee of the Whole on the state of the Union, in order to inquire into what is the state of the country? Those gentlemen who wish war, and are determined to have it, ought to speak out. The world should understand them, and the people ought not to be deceived. He hoped gentlemen would bring forward their declaration of war at once. He had always been, and should now be, opposed to war, but he wanted to put his negative upon it.

Mr. HARPER had no objection to go into a Committee of the Whole on the state of the Union, if the gentleman from Virginia had any motion to make, when the House got into that situation.

Mr. HARTLEY hoped the resolution before the House would be referred to a select committee, that the House might have a report upon it. He wondered that gentlemen who were against going to war, should wish to press the question of a declaration of it upon the House.

Mr. DANA observed that, from what had been now said upon the resolution, he saw no necessity for voting upon it at all.

Mr. OTIS spoke in favor of referring the resolution to a select committee, and saw no reason why the House should go into a Committee of the Whole on the state of the Union.

Mr. HARRISON said, every one would know he had no proposition to bring forward with respect to war; he wished to remain at peace; but he wished his constituents and the country at large to be informed as to what was to be the state of the country. Seeing, however, that no member is ready to make the declaration which had been so often spoken of, he should withdraw his motion for going into a Committee of the Whole.

Mr. SITGREAVES observed, with respect to the allusions of the gentleman last up, as to being prepared for a declaration of war, he confessed he felt no hesitation in saying, that he thought this declaration ought to be made in some form or other. He believed it was the duty of the Legislature to make it. He had thought so for some time; but certain considerations with respect to our Envoys, had prevented its being proposed. Such, he said, was his individual opinion; but he owned he had some scruples about bringing it forward, unless he should be assured, from a comparison of the opinions of gentlemen, such a proposition would receive a respectable and firm support. If he supposed this would be the case, he would make the motion at this moment; and it was because the motion of the gentleman from Connecticut looked towards a declaration, that he was in favor of it.

Mr. S. said he had heard it said for months past, by gentlemen of different opinions, that the aggressions of France against this country were lawful cause of war, and all have admitted that it has become a single question of expediency whether we shall declare war, or not. It was said no

consideration but that of interest, would prevent its being done, and he did not believe there was any such. We have, said he, for a long time suffered all the mischiefs that can be inflicted upon us in a state of war, and, therefore, the single question is now, whether we will avail ourselves of the advantages which might be derived from declaring war; for, however trifling gentlemen may deem the distinction which he made between a state of hostility and war, he looked upon that distinction as real and material. In case of an invasion taking place before a declaration of war has been made, certain limited authorities are placed in the PRESIDENT, and in the Executives of the several States, with respect to the armed force; but, if a declaration of war has previously taken place, the direction of that force is placed wholly in the hands of the PRESIDENT OF THE UNITED STATES. If this declaration should be made, he should still deem it a war of defence on our part. Mr. S. said he rose to declare his opinion on this point, and to say he was in favor of the motion of the gentleman from Connecticut.

Mr. NICHOLAS supposed there could have been no doubt as to the intentions of the gentleman from Connecticut in bringing forward this resolution, though he expected it would have been found necessary to have made it more explicit. If the object was, as he had no doubt it was, to procure a proposition for a declaration of war, he hoped the resolution would be so amended as to embrace that object. At present, it was quite an unmeaning thing.

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Mr. GALLATIN said, if he understood the resolution, it proposed the appointment of a committee, to declare what is the state of things between this country and France. He could not see with what propriety Congress could declare a statement of facts by a legislative act. It would be a little curious to pass a law to declare Mr. Gerry has no authority to treat with the French Government; or to declare that this room is sixty feet long, or any other fact. If the committee were to report what was necessary to be done, he could see the use of such a report.

Mr. LYON observed, that though this resolution was not so explicit as gentlemen might wish, yet such as it was, he was desirous it should pass. He wished to know the state of the country. Some say we are at war; others that we are in a state of hostility; others at peace. He wished to see a report on the subject. He had considered the country as in war for some time; if he was mistaken, he was desirous his mistake should be rectified. If we are at war, it would be well to request the PRESIDENT to get us peace as soon as he can.

The question on the resolution was put and negatived, without a division.

On motion of Mr. OTIS, the House went into a Committee of the Whole on the state of the Union, to take into consideration the bill from the Senate declaring our treaties with France void and of no effect. The committee being formed, and the bill having been read,

Mr. LIVINGSTON called for the reading of the treaties.

Mr. GALLATIN thought it would be sufficient to have certain parts of the treaties, which he mentioned, read. Mr. LIVINGSTON consented; but Mr. LYON persisted in the motion for reading the whole. On the question being taken, he only rose in favor of it. The parts of the treaties called for by Mr. G. were read.

Mr. SEWALL said, some doubts might be entertained, perhaps, as to the propriety of this measure. It is certainly a novel doctrine to pass a law declaring a treaty void; but the necessity arose from the peculiar situation of this country. In most countries, it is in the power of the Chief Magistrate to suspend a treaty whenever he thinks proper; here Congress only has that power. We have, said he, during this session, in a variety of cases, suspended the treaties in question, by authorizing measures of hostility against France, contrary to the stipulations contained therein. He believed it would be proper, therefore, to set aside these treaties by legal authority. But he confessed to do this, in the manner proposed by the Senate, would, at least, be inconvenient. He could not conceive that the Senate meant to go so far as this bill goes. We ought not to say the treaties are void and of no effect. They must have effect as historical facts; they must have effect, in our appeal to the world, on the ground of their having been violated, and in our claim upon France on account of those violations. There are also other articles which must have effect in case of war. He alluded to the articles which respect the situation of French citizens in this country, or American citizens in France, after war shall have been declared by either power. Mr. S., therefore, proposed a new form of a bill, more simple and with a much shorter preface, viz: "that, whereas the treaties have been in numerous instances violated, they are no longer to be considered as law within the United States," &c. It also proposed that any claim or restraint, stipulated by the said treaties, shall be abrogated and annulled.

The CHAIRMAN said this motion was not in order, and could not be received.

Mr. NICHOLAS saw no difference between the substitute proposed and the original bill. The gentleman from Massachusetts wished to retain the provision relative to the residence of the citizens of either country, after the declaration of war shall have taken place; but could that gentleman for a moment suppose that he could annul one part of a treaty and preserve other parts? The idea appeared to him a very extraordinary one.

Mr. RUTLEDGE hoped the committee would rise, and that the bill would be referred to a select committee. He believed it would be better to declare a part of the treaties void than the whole, which he thought might with propriety be done.

Mr. NICHOLAS had no objection to the committee's rising; but he could not believe we could take such parts of a treaty as we liked, and declare the rest void.

Mr. DANA believed that the gentleman from Virginia did not rightly apprehend what had been said by the gentleman from Massachusetts. Mr. D. admitted the impropriety of declaring void and of



no effect a legal instrument which was originally valid. In his opinion, this impropriety might be avoided, and the object of the bill attained, by a different phraseology. He believed a proper mode of acting upon this business would be, to declare the stipulations of the French treaties no longer obligatory on the United States. This we may justly do, in consequence of their being disregarded by France.

As to the effect of such a declaration, he acknowledged that it must be regarded as abrogating all those articles of the treaties which are executory, such as stipulate for the future conduct of the parties. Agreeing thus far with the gentleman from Virginia, he would consent most cheerfully that all such articles should be set aside, as they respect both countries. But the declaration would not have any effect on articles which are executed, such as contain cessions or renunciations of territorial claims, and where a corresponding possession has taken place. The operation of these articles is completed, and cannot be reversed by the declaration now proposed.

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Mr. D. then moved to amend the enacting clause, by expunging all the words after "That," and substituting "the United States are, of right, freed and exonerated from the stipulations of the treaties heretofore concluded between the United States and France, and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States."

Mr. OTIS approved of this motion, and, after a few observations by him in favor of it, the question was put and carried upon it without a division.

Mr. O. then moved to strike out the whole of this preamble; which motion being carried,

Mr. DANA proposed that the reasons for passing this bill should be condensed in the preamble, to read as follows: "Whereas, the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of the injuries so committed have been refused; and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity; and whereas, under the authority of the French Government, there is yet pursued against the United States a system of predatory violence infracting the said treaties, and hostile to the rights of a free and independent nation, therefore," &c.

The question on the preamble was put and carried—41 to 38.

The committee then rose, and the House took up the amendments. On the question being put on agreeing to the new preamble,

Mr. BAYARD said he thought it more in detail than was necessary. He thought it more like a State paper than the preamble of a law. He thought the preamble ought to go no further than to state sufficient ground for the act, which was about to be done; and he took it for granted that whenever a nation violates an essential article of a treaty, it is competent for the other party to declare the treaty no longer binding upon them. He, therefore, moved to strike out all the preamble after saying the treaties have been frequently violated. As to the French having committed depredations upon our commerce, and refused to negotiate with our Commissioners, though these circumstances may be a just cause of war, he did not know whether they were sufficient ground upon which to declare a treaty void.

Mr. KITTERA was against striking out. He could not agree that there could be causes for a declaration of war, which are not also causes for setting aside a treaty. The reverse of this position appeared to him to be true, viz: that there might be causes for declaring a treaty void, which would not be causes of war.

Mr. CRAIK was in favor of the preamble as it stood.

Mr. GORDON hoped the amendment would not prevail. It ought to be considered that if this bill passed into a law, it would be considered as a novel thing. It will be tantamount to a State declaration to annul a treaty, and there ought to be the grounds annexed to it which had led to the measure; and though the gentleman from Delaware is desirous of stating a sufficient cause, he did not think his motion went far enough. The practice of nations is, that when injuries are done, reparation is demanded; and it was necessary, in his opinion, to state that this demand had been made in vain, and that the injuries complained of are still continued.

Mr. S. SMITH hoped the amendment would be adopted. He disliked preambles very much. The reasons given by the gentleman from Delaware in favor of his motion he thought well founded. It would be much better to give one good reason for declaring the treaties no longer binding, than several doubtful ones. In his opinion there were some of this description as the preamble stands at present. He did not know that a reparation for injuries had been refused by France. He had seen nothing like an absolute demand made upon the French Government. The Envoys were empowered to make the demand; but, from their not having been duly received, the demand was never made. If it were made, it is clear it has not been complied with; but we have no evidence of its having been refused to be complied with. On the contrary, we see that on the 3d of April, Talleyrand had fixed a day on which he proposed to treat with Mr. Gerry on the subject of the disputes between the two countries. We have not heard the result of the conference; but it may have happened that Mr. Talleyrand has offered to make complete reparation for the injuries committed on our commerce, and this intelligence may arrive here a fortnight hence, and then a declaration of this sort would not have a good appearance. He thought, therefore, it would be better to strike these words out than to retain them.

Mr. S. presumed it was not yet *sedition* for him to say that he believed proposals to treat would be made to our Commissioners, independent of any tribute, and such as this country might with

honor accept. He hoped, therefore, no difficulty would be placed in the way, by passing the preamble as it now stands.

Mr. DANA was not generally in favor of fixing preambles to laws. Whenever the subject is such that it is obviously competent for the Legislature to act upon it; whenever the act proposed is, from its nature, completely within the usual Legislative powers, and, without any explanation, appears perfectly consistent with national honor and propriety, a preamble is unnecessary. But ought this to be said of the subject under consideration? Whence is it that the United States may abrogate the treaties with France? Is it because the Legislature may, at pleasure, set aside a treaty? If it is proper to do this, without any external cause, a preamble is needless in the present instance. According to his view of the subject, the act was founded on a different principle. France has violated the faith pledged by her treaties with America: this, by the law of nations, puts it within the option of the Legislature to decide, as a question of expediency, whether the United States shall any longer continue to observe their stipulations. It is owing to the perfidy of the French Government that the abrogation of our treaties with that nation has become justifiable and necessary. As an American, he hoped the United States would always regard the faith due to treaties, and that all their acts would, on the face of them, appear consistent with it. In this respect, he wished the conduct of the American Government to exhibit a marked contrast to French perfidy. It is of importance to the fairness of our national character. Therefore it is that the facts should be stated which have led to this measure.

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The gentleman from Delaware, in support of the amendment which he has moved, supposes it sufficient to state one cause for setting aside the treaties. He is understood to admit that a sufficient cause should be stated. In this principle, said Mr. D., we are agreed. But the question arises, whether a violation of the treaties on the part of France is, of itself, sufficient for setting them aside? The idea of Mr. D. was, that it would not be sufficient, according to the liberal principles which should be cherished in the United States. A treaty might be violated by the imprudence of some person in authority, or by persons acting without authority; and yet the foreign Government, on proper representations, might be willing to redress the injury. In such case, it would ill become the Government of the injured party immediately to dissolve friendly connections. Why is it now deemed requisite to abrogate the treaties by which this country has been connected with France? It is because France has not only violated them, but has also refused that attention which was due to our representations on the subject, and persists in the violation. On this account, and in order to show that the United States were completely justifiable in taking the measure, he was against the amendment of the gentleman from Delaware, and in favor of retaining the several clauses of the preamble.

A gentleman from Maryland (Mr. SMITH) has declared himself in favor of this amendment, because, in his view, there is no proof that our claim for the injuries committed on our rights, as a neutral nation, have been refused to be adjusted by France. The reason assigned for this opinion is so extraordinary that it may astonish every man acquainted with subjects of this nature. It is, that the French would not receive the Envoys charged with this business, or permit their speaking to them, although they waited for months at the palace-gate of Directorial Arrogance supplicating in vain for an audience. Were the gentleman from Maryland to go himself, or send one of his clerks, to present a demand for a sum justly due to him, if his debtor, instead of discharging or attending to the account, would not consent even to hear him on the subject, but should kick him from the door, or order a servant to do it, would not the gentleman consider such conduct as a refusal to satisfy the demand. He who knows that claims of justice merit the respect of Governments, as well as of individuals, and ought never to be neglected without reasonable cause, must know that evasions, intentional procrastination, and affected delays, are equivalent to a refusal of satisfaction. This is the doctrine of reason, of common sense, of municipal law, and of the law of nations. The facts stated in the preamble, therefore, are strictly true; they are established by the very statement which the gentleman has made to disprove them. And since he has made a question on the subject, it is of additional importance for the Legislature to declare its conviction of their truth.

Mr. CRAIK believed with the gentleman from Connecticut, last up, that from the declaration of his colleague this question was of consequence. He believed gentlemen were now called upon to testify to the truth of this statement, since it had been doubted. The people ought not to be left in doubt on this subject.

Mr. OTIS said, exactly the same effect which had been produced upon the mind of the gentleman last up, was also produced upon his. Before he had heard the arguments of the gentleman from Maryland in its favor, he intended to vote for the motion of the gentleman from Delaware, as being more concise, and as he thought stating sufficient ground for the act about to be passed; but when that gentleman says we have no evidence of reparation for the injuries committed upon our commerce being refused to be made, the abhorrence he felt at the idea of being ranked among members of this opinion would lead him to vote against it. He believed the facts stated in the preamble unquestionably true, and he did not think there could have been a man in the United States who had a doubt on the subject. He believed there could be no doubt that when a sum of money is neglected to be paid, when due, though the debtor may refuse to see any person authorized to make the demand, that it is legally refused to be paid.

If the documents on the table were examined, Mr. O. said it would be found, that so far from Mr. Talleyrand having listened to the claims of our Commissioners, he had expressed his surprise that they should have been made, alleging that the priority of claim was on the part of the French Government. Mr. O. made several other observations, when he concluded by saying, that if any offers of pacification were made by men of the description of those at present in power in the

Mr. HARPER said he would say only a few words in justification of his vote in favor of the present motion. He disliked preambles altogether. He voted against the one from the Senate, and he should be in favor of reducing this; for, if we must have a preamble, he thought the less the better. It is the business of the Legislature, Mr. H. said, to pass laws; if a manifesto is proper to be published on this occasion, it would more probably fall under the Executive Department. It is his business to issue State papers, and he could do it much better than it could be done in this House. He was sorry it should be thought necessary to have any preface at all to the law, as it was departing from a good old rule laid down by Congress.

Mr. S. SMITH was not convinced, by any thing that had been said against this motion, that what he had before stated was ill-founded. It had been asked whether, if he sent three persons to demand a debt, and the debtor ordered them away without seeing them, he should not consider the act as a refusal to pay. He answered, he should. But he would put a case, which he thought more in point. Were he to send three persons to settle an account with a debtor, and he were to send two of them home again, but keep one, and promise to adjust the business with him, he should naturally expect he would do so, and should not think of proceeding to any rigorous measures with him, until he heard the result.

The gentleman from Massachusetts has said that he can never consent to accept of any terms from the present Executive Directory, as he shall consider them insidious, and not to be relied upon. After a two years' war, perhaps, he may be of a different opinion. Mr. S. said he should be as unwilling as any man to accept of any terms from the French Government which would be derogatory to the United States; but if the Directory will engage that all the depredations upon our commerce shall cease, and will offer to treat with us on equitable terms, (which he did not think improbable,) he should be for acceding, most cheerfully, to the proposal.

Mr. GALLATIN said he should vote against the motion to strike out a part of the preamble agreed to in the Committee of the Whole. He was of opinion with gentlemen, that it was better to pass laws in general, without preambles; but this proceeding is altogether of a novel nature. He knew of no precedent of a Legislature repealing a treaty. It is therefore an act of a peculiar kind, and it appeared to him necessary that Congress should justify it by a declaration of their reasons. Nor could he understand the argument of the gentleman from South Carolina, when he said the Executive Department was better calculated for the publishing of a manifesto than the Legislature, or, in other words, could assign the reasons that influenced Congress better than Congress themselves. If, then, a preamble is to be adopted, it ought to contain those reasons which operated in producing the law. He thought this would be more correctly stated by leaving the preamble as it is, than by adopting the amendment.

There was also another reason for preserving the preamble as at present. The French have violated the Treaty of Commerce made with this country; but it would be rather difficult for any gentleman to show that repeated violations have taken place of our Treaty of Alliance with France. The ground of complaint is, that France has violated the Treaty of Commerce between the two countries, and the laws of nations, and not the Treaty of Alliance; and, therefore, a breach of that treaty is not the reason why it is set aside. Besides, if repeated violations of a treaty are sufficient reasons for setting it aside, it could not be forgotten that certain orders had been issued by another country, which are not conformable to our treaty with that power. So, that it is not sufficient to say, that because a treaty has been violated, we will repeal it; but we ought to show to the world that repeated attempts have been made, in vain, to obtain redress.

But the gentleman from Maryland is apprehensive that the statement of the French Government having refused to make reparation for the injuries committed upon our commerce could not be correct, from the possibility of Mr. Gerry having succeeded in making a treaty since the date of our last despatches. He acknowledged there was a bare possibility of the fact being so; but this ought to operate as a reason against passing the bill at all, and not against the preamble.

Mr. EDMOND said, he voted for rejecting the Senate's preamble. It appeared to him that no preamble was necessary. For, if it were necessary to state the reasons which induced the passing of this act, it would be proper to state all the reasons, and to do that would be a work of considerable time; and, upon the facts stated, there might probably be a considerable difference of opinion. If reasons were stated for passing this law, and, at a future day, when an adjustment of differences should take place, the negotiator on the part of the United States were to adduce other reasons for passing this act than are stated in this preamble, it might be stated by the negotiator, on the part of France, why do you muster up complaints now, which you did not think of when the law passed? He therefore thought it would be best to pass the law without a preamble at all.

No question in the laws of nations, Mr. E. said, was more clear, than that, when a treaty is violated by one nation, the other party, who has maintained good faith, may either discharge themselves from the obligations of it, or, if kindly disposed, they may set on foot a negotiation, or they may declare war, without doing either of the other two. He laid it down as a further principle, that where there are several treaties in existence between two countries, and one of them is violated, the injured party may demand satisfaction; and if it be not given, they may declare the whole of the treaties void. He therefore was of opinion that France having violated our treaty with her, we have a right, without assigning any reason for it, to set it aside; and as we have repeatedly applied to them for redress, and they have refused to grant it, we have a right to reject the whole or to declare war, without assigning any reason whatever. However, if we wish

to appear fair in the eyes of the world, we may, if we please, assign a reason for our act; but, in this case, he would either give all the reasons which exist, or make them as precise as possible. He should, therefore, vote in favor of striking out the words in question.

The question to strike out was negatived; and the question being taken on the preamble, it was carried—there being 53 votes for it.

The bill was ordered for a third reading this day. It afterwards received its third reading, and was passed—yeas 47, nays 37, as follows:

YEAS.—John Allen, George Baer, jr., Bailey Bartlett, Jas A. Bayard, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, William Craik, Samuel W. Dana, George Dent, William Edmond, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, William Matthews, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thos. Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Abraham Baldwin, David Bard, Thos. Blount, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, Thomas Evans, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

## TUESDAY, July 10.

### *Punishment of Crimes.*

The bill, in addition to the act for punishing crimes against the United States, and for other purposes, was read the third time; when

Mr. SITGREAVES wished the bill to be recommitted. It had been suggested to him that great inconvenience arises in the Federal Courts, from its having been conceived that they have not the power to bind to good behavior, and he was desirous of removing this defect, by adding a section to this bill for the purpose.

Mr. BAYARD thought the gentleman from Pennsylvania had better bring this subject forward by itself, than have this bill recommitted, as it was no way connected with it.

Mr. SITGREAVES consented.

The question was now on the passing of the bill.

Mr. McDOWELL called for the yeas and nays upon it.

Mr. NICHOLAS rose, he said, to ask an explanation of the principles upon which this bill is founded. He confessed it was strongly impressed upon his mind, that it was not within the powers of the House to act upon this subject. He looked in vain amongst the enumerated powers given to Congress in the constitution, for an authority to pass a law like the present; but he found what he considered as an express prohibition against passing it. He found that, in order to quiet the alarms of the people of the United States with respect to the silence of the constitution as to the liberty of the press, not being perfectly satisfied that the powers not vested in Congress remained with the people, that one of the first acts of this Government was to propose certain amendments to the constitution, to put this matter beyond doubt, which amendments are now become a part of the constitution. It is now expressly declared by that instrument, "that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and, also, "that Congress shall make no law abridging the freedom of speech, or of the press."

Mr. N. asked whether this bill did not go to the abridgment of the freedom of speech and of the press? If it did not, he would be glad if gentlemen would define wherein the freedom of speech and of the press consists.

Mr. N. wished gentlemen, before they give a final vote on this bill, to consider its effects; and, if they do this, he thought they would consent to stop here. He desired them to reflect on the nature of our Government; that all its officers are elective, and that the people have no other means of examining their conduct but by means of the press, and an unrestrained investigation through them of the conduct of the Government. Indeed, the heart and life of a free Government, is a free press; take away this, and you take away its main support. You might as well say to the people, we, your Representatives, are faithful servants, you need not look into our conduct; we will keep our seats for a little longer time than that for which you have given them to us. To restrict the press, would be to destroy the elective principle, by taking away the information necessary to election, and there would be no difference between it and a total denial of the right

of election, but in the degree of usurpation.

Mr. OTIS said, the professions of attachment to the constitution, made by the gentleman from Virginia, are certainly honorable to him; and he could not believe that an attachment so deeply engrafted, as he states his to be, would be shaken by this bill. The gentleman had caught an alarm on the first suggestion of a sedition bill, which had not yet subsided; and though the present bill is perfectly harmless, and contains no provision which is not practised upon under the laws of the several States in which gentlemen had been educated, and from which they had drawn most of their ideas of jurisprudence, yet the gentleman continues to be dissatisfied with it.

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The objections of the gentleman from Virginia, he believed, might be reduced to two inquiries. In the first place, had the constitution given Congress cognizance over the offences described in this bill prior to the adoption of the amendments to the constitution? and, if Congress had that cognizance before that time, have those amendments taken it away? With respect to the first question, it must be allowed that every independent Government has a right to preserve and defend itself against injuries and outrages which endanger its existence; for, unless it has this power, it is unworthy the name of a free Government, and must either fall or be subordinate to some other protection. Now some of the offences delineated in this bill are of this description. Unlawful combinations to oppose the measures of Government, to intimidate its officers, and to excite insurrections, are acts which tend directly to the destruction of the constitution, and there could be no doubt that the guardians of that constitution are bound to provide against them. And if gentlemen would agree that these were acts of a criminal nature, it follows that all means calculated to produce these effects, whether by speaking, writing, or printing, were also criminal. From the nature of things, therefore, the National Government is invested with a power to protect itself against outrages of this kind, or it must be indebted to and dependent on an individual State for its protection, which is absurd. This essential right resulting from the spirit of the constitution, was still more evident in the language of that instrument. The people of the individual States brought with them as a birthright into this country the common law of England, upon which all of them have founded their statute law. If it were not for this common law, many crimes which are committed in the United States would go unpunished. No State has enacted statutes for the punishment of all crimes which may be committed; yet in every State he presumed there was a Superior Court which claimed cognizance of all offences against good morals, and which restrained misdemeanors and opposition to the constituted authorities, under the sanction merely of the common law. When the people of the United States convened for the purpose of framing a federal compact, they were all habituated to this common law, to its usages, its maxims, and its definitions. It had been more or less explicitly recognized in the constitution of every State, and in that of Maryland it was declared to be the law of the land. If, then, we find in an instrument digested by men who were all familiarized to the common law, not only that the distribution of power, and the great objects to be provided for are congenial to that law, but that the terms and definitions by which those powers are described, have an evident allusion to it, and must otherwise be quite inexplicable, or at best of a very uncertain meaning, it will be natural to conclude that, in forming the constitution, they kept in view the model of the common law, and that a safe recourse may be had to it in all cases that would otherwise be doubtful. Thus we shall find that one great end of this compact, as appears in the preamble, is the establishment of justice, and for this purpose a Judicial department is erected, whose powers are declared "to extend to all cases in law and equity, arising under the constitution, the laws of the United States," &c. Justice, if the common law ideas of it are rejected, is susceptible of various constructions, but agreeably to the principles of that law, it affords redress for every injury, and provides a punishment for every crime that threatens to disturb the lawful operations of Government. Again, what is intended by "cases at law and equity arising under the constitution," as distinguished from cases "arising under the laws of the United States?" What other law can be contemplated but common law; what sort of equity but that legal discretion which has been exercised in England from time immemorial, and is to be learnt from the books and reports of that country? If it be answered that these words comprise civil controversies only, though no reason appears for this distinction, yet what is to be done with other terms, with trial, jury, impeachment, &c., for an explanation of all which, the common law alone can furnish a standard? It has been said by the gentleman that the constitution has specified the only crimes that are cognizable under it; but other crimes had been made penal at an early period of the Government, by express statute, to which no exception had been taken. For example, stealing public records, perjury, obstructing the officers of justice, bribery in a Judge, and even a contract to give a bribe, (which last was a restraint upon the liberty of writing and speaking,) were all punishable, and why? Not because they are described in the constitution, but because they are crimes against the United States—because laws against them are necessary to carry other laws into effect; because they tend to subvert the constitution. The same reasons applied to the offences mentioned in the bill.

Mr. MACON said, the same section of the constitution which forbids any interference with the freedom of speech and of the press, extends also to religious establishments, and says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This bill ought to be considered, therefore, as the commencement of a system which might as well be extended to the establishment of a national religion, as to a "restraint of speech, and of the press." He acknowledged the bill was less exceptionable than when it came from the Senate; but it yet contained the principle which he considered as violating the constitution.

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Mr. M. said, he had attended to all that had been said in support of this bill; but could find nothing like argument in it. When the words of the constitution were so express, it seems impossible they could be understood as the gentleman from Massachusetts had represented

them. Several authorities, Mr. M. said, had been read to show that this bill will form a constitutional law. He believed, however, far more might be adduced to show the reverse. He believed the best way of coming at the truth of the construction of any part of the constitution, was, by examining the opinions that were held respecting it when it was under discussion in the different States.

Mr. M. then proceeded to quote the opinions of the leading members in several of the State conventions, in order to show, from the opinions of the friends of the constitution, that it was never understood that prosecutions for libels could take place under the General Government; but that they must be carried on in the State courts, as the constitution gave no power to Congress to pass laws on this subject. Not a single member in any of the conventions gave an opinion to the contrary. The following are the words of Judge Iredell, of North Carolina, on the occasion. Judge Wilson, of this State, and several others, were equally strong; but we have them not at hand, and if we had, to give extracts from the whole would occupy too much room. In the Convention of North Carolina, in reply to a member who had said that the General Government might make it treason to write against the most arbitrary proceedings, but who, it appears, afterwards corrected himself, and said he meant only misprision of treason, and only that it might be done within the ten miles square, where they were to have exclusive legislation, Judge Iredell, thus spoke:

"Where is the power given them to do this? They (Congress) have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; but they have no power to define *any other crime whatever*. This shows how apt gentlemen are to commit mistakes. The powers of the Government are particularly enumerated and defined. They can claim no others but such as are so enumerated. In my opinion, they are excluded as much from the exercise of any other authority, as they could be by the strongest negative clause that could be framed."

Gentlemen, Mr. M. said, might call this a harmless bill; but however harmless it may be, it is a beginning to act upon forbidden ground, and no one can say to what extent it may hereafter be carried. He thought this subject of the liberty of the press was sacred, and ought to be left where the constitution had left it. The States have complete power on the subject, and when Congress legislates, it ought to have confidence in the States, as the States ought also to have confidence in Congress, or our Government is gone. This Government depends upon the State Legislatures for existence. They have only to refuse to elect Senators to Congress, and all is gone. He believed there was nowhere any complaint of a want of proper laws under the State Governments; and though there may not be remedies found for every grievance in the General Government, what it wants of power will be found in the State Governments, and there can be no doubt but that power will be duly exercised when necessity calls for it.

Mr. LIVINGSTON said, that notwithstanding the sarcasms which had been thrown out against those who oppose this measure; notwithstanding that kind of accommodating principle which has been set up and reiterated, that the powers of this constitution extend to every possible case—a principle which goes to the destruction of State authorities, and makes that instrument mean any thing or nothing—notwithstanding this, he should again venture to engage the attention of the House while he endeavored to show that this bill is not only contrary to the spirit, but to the direct letter of the constitution.

The constitution declares that "no law shall be passed to abridge the liberty of speech or of the press." Let us inquire, said Mr. L., what was the liberty enjoyed at the time this declaration was agreed to, and see whether citizens will enjoy the same liberty after this law passes that they then enjoyed. Will gentlemen say that the same liberty of writing and speaking did not exist then that now exists? If they will not say this, must they not allow that the constitution is positive in prohibiting any change in this respect? Gentlemen may call this liberty an evil, if they please; if it be an evil, (which he was far from believing,) it is an evil perpetrated by the constitution.

The constitution seems to have contemplated cases which might arise at a future day. It seems to have foreseen that majorities (far be it from him to believe the present majority is of the number) might be actuated by dispositions hostile to the Government; that it might wish to pass laws to suppress the only means by which its corrupt views might be made known to the people, and therefore says, *no* law shall be passed to abridge the liberty of speech and of the press. This privilege is connected with another dear and valuable privilege—the liberty of conscience. What is liberty of conscience? Gentlemen may to-morrow establish a national religion agreeably to the opinion of a majority of this House, on the ground of a uniformity of worship being more consistent with public happiness than a diversity of worship. The doing of this is not less forbidden than the act which the House are about to do. But, it is said, will you suffer a printer to abuse his fellow-citizens with impunity, ascribing his conduct to the very worst of motives? Is no punishment to be inflicted on such a person? Yes. There is a remedy for offences of this kind in the laws of every State in the Union. Every man's character is protected by law, and every man who shall publish a libel on any part of the Government, is liable to punishment. Not, said Mr. L., by laws which we ourselves have made, but by laws passed by the several States. And is not this most proper? Suppose a libel were written against the PRESIDENT, where is it most probable that such an offence would receive an impartial trial? In a court, the judges of which are appointed by the PRESIDENT, by a jury selected by an officer holding his office at the will of the PRESIDENT? or in a court independent of any influence whatever? The States are as much interested in the preservation of the General Government as we are. We do wrong when we attempt to set up interests independent of the States. They are all desirous of preserving the constitution as it now

stands; and it is, therefore, much more probable that justice will be found in a court in which neither of the parties have influence, than in one which is wholly in the power of the PRESIDENT.

The bill was then passed—yeas 44, nays 41, as follows:

YEAS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, Joshua Coit, Samuel W. Dana, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Stephen Bullock, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, William Matthews, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jun., Richard Stanford, Thomas Sumter, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

### FRIDAY, July 13.

#### *Capture of French armed vessels.*

The House went into a Committee of the Whole on the bill for encouraging the capture of French armed vessels by armed vessels belonging to citizens of the United States; which was agreed to without debate or amendment, and ordered to be read a third time to-day. It was accordingly immediately read a third time; when

Mr. McDOWELL said, he hoped this bill would not pass. Congress had already passed laws authorizing public and private armed vessels to attack and take French vessels; but they are now called upon to give a bounty upon the guns that are brought in, according to their size. He was not willing to allow this. It would open a door to innumerable frauds. Plans would be laid between the owners of privateers here and their friends in the West Indies, and vessels and arms would be thrown in their way for the purpose of capture, and in this manner our Treasury would be drained to an extent which no man could at present foresee. He could see no use in the provision, as it would not induce merchant vessels to go in search of French vessels; and, without some unfair play, it would never be worth the while of persons fitting out privateers for the purpose. He called the yeas and nays upon it. They were taken accordingly, and were, yeas 34, nays 36, as follows:

YEAS.—John Allen, Bailey Bartlett, James A. Bayard, David Brooks, Christopher G. Champlin, Joshua Coit, William Craik, Samuel W. Dana, William Edmond, Abiel Foster, Dwight Foster, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, Harrison G. Otis, Isaac Parker, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Sitgreaves, Nathaniel Smith, George Thatcher, Mark Thompson, and John E. Van Allen.

NAYS.—David Bard, Thomas Blount, Richard Brent, Dempsey Burges, Thomas Claiborne, William Charles Cole Claiborne, John Clopton, John Dawson, George Dent, Albert Gallatin, James Gillespie, William Barry Grove, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Samuel Smith, William Smith, Richard Sprigg, jr., Richard Stanford, Thomas Sumter, Thomas Tillinghast, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

And so the said bill was rejected.

### SATURDAY, July 14.

The hour having arrived, at which the call of the House was to be made, the names of the members were called over, eighty-two members (including the Speaker) appeared in their seats, twenty-three absent, twenty of whom have leave, one sick, and two for whom excuses were made, and received by the House.

#### *Capture of French vessels.*

Mr. SITGREAVES, called up for decision the resolution he laid on the table yesterday, viz:

*Resolved*, That a committee be appointed to prepare and bring in a bill for giving a bounty on the capture of French armed ships or vessels, by armed ships or vessels owned by a citizen or citizens of the United States.

The question on the resolution, was then put and negatived—yeas 40, nays 41.

And so the motion was rejected.

## **MONDAY, July 16.**

### ***Intercourse with France.***

Another bill was received from the Senate, to amend the act for suspending the commercial intercourse between the United States and France and her dependencies.

Mr. NICHOLAS moved to postpone this bill till next session.

Mr. HARPER hoped not. This bill, he said, was very different from the one which had been negatived. That proposed to dispense with sureties altogether; this only to lower the amount of the bond. Instead of the owner giving security in a sum equal to the amount of vessel and cargo, and finding two sureties in half the sum, this bill proposes that the owner and master shall be bound in a sum equal to the amount of the value of the vessel, and a surety in from one to ten thousand dollars. To exact a bond equal to the amount of the vessel and cargo in every case, would be very inconvenient. They are sometimes very valuable. There is now, he said, a vessel in this port ready to sail, whose cargo is worth \$300,000. To exact from the owner a bond to the full amount, and two sureties in half the sum, would be requiring a very heavy security from them. It would be sufficient, he thought, to require a bond equal to the profit which it is probable would be derived from any voyage.

Mr. S. SMITH said, this bill was certainly very different from that which had been rejected by this House, though it did not meet with his approbation at present. It was capable, however, of amendment. The security at present proposed was not worthy of the name. Had he a ship ready to sail such as the gentleman last up had named, he would willingly forfeit the sum proposed, to have the privilege of sending her to a French market. The difference in price between a French and a Hamburg market would make it well worth his while to do so. In many cases, such a voyage would afford 50 per cent. A regulation something like the present could only secure the fair trader; but the surety must be a much larger sum than \$10,000.

The committee rose, however, and Mr. SMITH renewed his amendment in the House, when it was agreed to, after some objections to it from Mr. BAYARD—36 to 28. The bill was then ordered to be read a third time, received its third reading, and passed.

The House having received all the bills from the PRESIDENT, and the business of the two Houses being finished, the SPEAKER adjourned the House till the first Monday in December next.

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## **FIFTH CONGRESS.—THIRD SESSION.**

**BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 3, 1798.**

### **PROCEEDINGS IN THE SENATE.**

**MONDAY, December 3, 1798.**

The third session of the fifth Congress commenced this day, conformably to the provision of the constitution, and the Senate assembled at the city of Philadelphia, in their Chamber.

PRESENT:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

THEODORE FOSTER and RAY GREENE, from Rhode Island.

WILLIAM BINGHAM, from Pennsylvania.

HUMPHREY MARSHALL, from Kentucky.

JACOB READ, from South Carolina.

JAMES GUNN, from Georgia.

DANIEL SMITH, appointed a Senator by the Executive of the State of Tennessee, in the recess of that Legislature, in place of Andrew Jackson, resigned, took his seat in the Senate.

The members present not being sufficient to form a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

**TUESDAY, December 4.**

HENRY LATIMER, from the State of Delaware, attended.



The members present not being sufficient to form a quorum, adjourned.

### **WEDNESDAY, December 5.**

BENJAMIN GOODHUE, from the State of Massachusetts; ELIJAH PAINE, and NATHANIEL CHIPMAN, from the State of Vermont; JOHN LAURANCE, from the State of New York; and TIMOTHY BLOODWORTH, from the State of North Carolina, severally attended.

No quorum being present, the Senate adjourned.

### **THURSDAY, December 6.**

RICHARD STOCKTON, from the State of New Jersey, and JOSEPH ANDERSON, from the State of Tennessee, severally attended.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides, and JOHN LAURANCE was chosen.

The credentials of DANIEL SMITH, appointed Senator by the Executive of the State of Tennessee, in place of Andrew Jackson, resigned, were read, and the oath was, by the PRESIDENT, administered to him, as the law provides.

*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 JOHN LAURANCE, President of the Senate *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 JOHN LAURANCE, President of the Senate *pro tempore*.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and that they have appointed a joint committee on their part, together with such committee as the Senate may appoint on theirs, 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.

The Senate took into consideration the message from the House of Representatives, and

*Resolved*, That they do concur therein, and that Messrs. READ and PAINE be of the joint committee on the part of the Senate.

The return of service on the summons to William Blount, made by the Sergeant-at-arms, pursuant, to the resolution of the Senate of the first of March last, was read.

Mr. READ reported, from the joint committee appointed for that purpose, 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 on Saturday next at 12 o'clock, in the Chamber of the House of Representatives.

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### **SATURDAY, December 8.**

JAMES ROSS, from the State of Pennsylvania, attended.

A message from the House of Representatives informed the Senate that they 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, this day addressed to both Houses of Congress, was read. [For which see proceedings in the House of Representatives.]

*Ordered*, That Messrs. STOCKTON, READ, and ROSS, 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, and that the Speech be printed for the use of the Senate.

### **MONDAY, December 10.**

URIAH TRACY, from the State of Connecticut, attended.

### **TUESDAY, December 11.**

JAMES WATSON, appointed a Senator by the Legislature of the State of New York, in place of John S. Hobart, resigned, produced his credentials, which were read, and the oath was, by the PRESIDENT, administered to him, as the law provides.

The Senate resumed the consideration of the report of the committee on the draft of an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, at the opening of the session; which, being read in paragraphs and amended, was adopted, as follows:

*To the President of the United States:*

SIR: The Senate of the United States join you in thanks to Almighty God for the removal of the late afflicting dispensations of his Providence, and for the patriotic spirit and general prosperity of our country. Sympathy for the sufferings of our fellow-citizens from disease, and the important interests of the Union, demand of the National Legislature a ready co-operation with the State Governments, in the use of such means as seem best calculated to prevent the return of this fatal calamity.

Although we have sincerely wished that an adjustment of our differences with the republic of France might be effected on safe and honorable terms, yet the information you have given us of the ultimate failure of the negotiations has not surprised us. In the general conduct of that Republic, we have seen a design of universal influence, incompatible with the self-government, and destructive of the independence of other States. In its conduct towards these United States, we have seen a plan of hostility pursued with unremitting constancy—equally disregarding the obligations of treaties, and the rights of individuals. We have seen two embassies formed for the purpose of mutual explanations, and clothed with the most extensive and liberal powers, dismissed without recognition and even without a hearing. The government of France has not only refused to repeal, but has recently enjoined the observance of its former edict, respecting merchandise of British fabric or produce, the property of neutrals, by which the interruption of our lawful commerce, and the spoliation of the property of our citizens, have again received a public sanction. These facts indicate no change of system or disposition—they speak a more intelligible language than professions of solicitude to avoid a rupture, however ardently made. But if, after the repeated proofs we have given of a sincere desire for peace, these professions should be accompanied by insinuations, implicating the integrity with which it has been pursued—if, neglecting and passing by the constitutional and authorized agents of the Government, they are made through the medium of individuals without public character or authority; and, above all, if they carry with them a claim to prescribe the political qualifications of the Minister of the United States to be employed in the negotiation, they are not entitled to attention or consideration, but ought to be regarded as designed to separate the people from their Government, and to bring about by intrigue that which open force could not effect.

We are of opinion with you, sir, that there has nothing yet been discovered in the conduct of France which can justify a relaxation of the means of defence adopted during the last session of Congress, the happy result of which is so strongly and generally marked. If the force by sea and land which the existing laws authorize should be judged inadequate to the public defence, we will perform the indispensable duty of bringing forward such other acts as will effectually call forth the resources and force of our country.

A steady adherence to this wise and manly policy—a proper direction of the noble spirit of patriotism which has arisen in our country, and which ought to be cherished and invigorated by every branch of the Government, will secure our liberty and independence against all open and secret attacks.

We enter on the business of the present session with an anxious solicitude for the public good, and shall bestow that consideration on the several objects pointed out in your communication, which they respectively merit.

Your long and important services—your talents and firmness, so often displayed in the most trying times and most critical situations—afford a sure pledge of a zealous co-operation in every measure necessary to secure us justice and respect.

JOHN LAURANCE,  
*President of the Senate pro tempore.*

*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. STOCKTON 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. Whereupon, [Pg 323]

*Resolved*, That the Senate will, to-morrow at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

### **WEDNESDAY, December 12.**

Agreeably to the resolution of yesterday, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the PRESIDENT of the Senate, in their name, presented the Address then agreed on.

To which the PRESIDENT OF THE UNITED STATES made the following reply:

*To the Senate of the United States:*

GENTLEMEN: I thank you for this Address, so conformable to the spirit of our

constitution, and the established character of the Senate of the United States, for wisdom, honor, and virtue.

I have seen no real evidence of any change of system or disposition in the French Republic towards the United States. Although the officious interference of individuals, without public character or authority, is not entitled to any credit, yet it deserves to be considered, whether that temerity and impertinence of individuals affecting to interfere in public affairs, between France and the United States, whether by their secret correspondence or otherwise, and intended to impose upon the people, and separate them from their Government, ought not to be inquired into and corrected.

I thank you, gentlemen, for your assurances that you will bestow that consideration on the several objects pointed out in my communication, which they respectively merit.

If I have participated in that understanding, sincerity, and constancy, which have been displayed by my fellow-citizens and countrymen, in the most trying times, and critical situations, and fulfilled my duties to them, I am happy. The testimony of the Senate of the United States, in my favor, is a high and honorable reward, which receives, as it merits, my grateful acknowledgments. My zealous co-operation in measures necessary to secure us justice and consideration may be always depended on.

JOHN ADAMS.

*December 12, 1798.*

The Senate returned to their own Chamber, and proceeded to the consideration of Executive business.

#### **FRIDAY, December 14.**

JOHN E. HOWARD, from the State of Maryland, attended.

#### **MONDAY, December 17.**

ALEXANDER MARTIN, from the State of North Carolina, and JAMES HILLHOUSE, from the State of Connecticut, severally attended.

#### **WEDNESDAY, December 19.**

FRANKLIN DAVENPORT, appointed a Senator by the Executive of the State of New Jersey, in the recess of the Legislature, in the place of John Rutherford, resigned, produced his credentials; which were read, and, the oath of office being administered to him as the law provides, he took his seat in the Senate.

#### **WEDNESDAY, December 26.**

JAMES LLOYD, from the State of Maryland, attended.

#### **THURSDAY, December 27.**

THOMAS JEFFERSON, Vice President of the United States and President of the Senate, attended.

#### **MONDAY, December 31.**

The VICE PRESIDENT laid before the Senate a letter from JOHN HUNTER, notifying his resignation of his seat in the Senate.

#### **MONDAY, January 7, 1799.**

JOHN BROWN, from the State of Kentucky, and THEODORE SEDGWICK, from the State of Massachusetts, severally attended.

#### **TUESDAY, January 8.**

STEPHENS T. MASON, from the State of Virginia, attended.

#### **MONDAY, January 21.**

HENRY TAZEWELL, from the State of Virginia, attended.

#### **THURSDAY, January 24.**

The Senate being informed that HENRY TAZEWELL, one of the members from the State of Virginia,

died this morning,

*Resolved*, That a committee be appointed to take order for superintending the funeral of the said HENRY TAZEWELL, Esq., and that the Senate will attend the same, and that notice of the event be given to the House of Representatives, and that this committee consist of MESSRS. MASON, BROWN, and MARSHALL.

*Resolved, unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of HENRY TAZEWELL, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm.

*Resolved*, That the President of the Senate notify the Executive of Virginia of the death of HENRY TAZEWELL, late Senator of that State for the United States.

### **FRIDAY, January 25.**

The VICE PRESIDENT communicated the credentials of WILLIAM HILL WELLS, elected a Senator for the State of Delaware, in the place of Joshua Clayton, deceased. [Pg 324]

### **WEDNESDAY, January 30.**

JOSIAH TATTNALL, from the State of Georgia, attended.

### **MONDAY, February 4.**

WILLIAM HILL WELLS, appointed a Senator by the Legislature of the State of Delaware, in place of Joshua Clayton, deceased, attended; and his credentials being read, and the oath required by law administered to him, he took his seat in the Senate.

### **WEDNESDAY, February 6.**

The bill sent from the House of Representatives, entitled "An act further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes," was read a third time.

On motion to add the following proviso to the fourth section:

*"Provided*, That a notice of not less than nineteen days of the opening commerce with the French Republic, or any port or place under the Government thereof, by authority of this act, and of not less than thirty days of the revocation of any order issued by the PRESIDENT, by virtue of this act, shall be given:"

It was determined in the negative—yeas 13, nays 14, as follows:

YEAS.—MESSRS. Anderson, Bloodworth, Brown, Chipman, Gunn, Langdon, Livermore, Lloyd, Marshall, Martin, Mason, Read, and Tattnall.

NAYS.—Messrs. Bingham, Davenport, Foster, Goodhue, Greene, Hillhouse, Latimer, Paine, Ross, Sedgwick, Stockton, Tracy, Watson, and Wells.

On motion to amend the motion, to be read as follows:

*"Provided*, That notice shall be given, of not less than thirty days, of the revocation of any order issued by the PRESIDENT, by virtue of this act:"

It was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS.—MESSRS. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Lloyd, Marshall, Paine, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS.—Messrs. Anderson, Bloodworth, Brown, Langdon, Martin, Mason, Read, Ross, and Tattnall.

And on the question to agree to the motion thus amended, it was determined in the negative.

And having agreed to several amendments to the bill, the question on the final passage thereof, as amended, it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS.—MESSRS. Bingham, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Livermore, Lloyd, Paine, Ross, Sedgwick, Tracy, Watson, and Wells.

NAYS.—Messrs. Anderson, Bloodworth, Brown, Gunn, Langdon, Marshall, Martin, Mason, Read, and Tattnall.

### **SATURDAY, February 9.**

The Senate resumed the second reading of the bill to amend the act, entitled "An act providing for the sale of the lands of the United States in the territory north-west of the river Ohio, and above the mouth of Kentucky River."

On motion to strike out the 8th section of the bill as follows:

"SEC. 8. *And be it further enacted*, That aliens residing within the United States or elsewhere, shall be capable of purchasing and holding lands in the territory of the United States north-west of the river Ohio, and their heirs may succeed to them *ab intestato*, in the same manner as if they were citizens; and they may grant, sell, and devise the same to whom they may please, whether citizens or aliens; and that neither they, their heirs, or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens."

It was determined in the affirmative—yeas 13, nays 11, as follows:

YEAS.—MESSRS. Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Martin, Read, Sedgwick, Stockton, Tracy, Watson, and Wells.

NAYS.—Messrs. Anderson, Bingham, Bloodworth, Brown, Gunn, Langdon, Livermore, Marshall, Mason, Ross, and Tattnall.

### **TUESDAY, February 12.**

The bill vesting the power of retaliation, in certain cases, in the PRESIDENT OF THE UNITED STATES, was read the third time; and, being amended, the question on the final passage thereof was determined in the affirmative—yeas 22, nays 2, as follows:

YEAS.—MESSRS. Anderson, Bloodworth, Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Latimer, Livermore, Lloyd, Marshall, Martin, Paine, Ross, Sedgwick, Stockton, Tattnall, Tracy, Watson, and Wells.

NAYS.—Messrs. Howard and Langdon.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act vesting the power of retaliation, in certain cases, in the PRESIDENT OF THE UNITED STATES."

### **WEDNESDAY, February 13.**

The VICE PRESIDENT communicated a letter from the Executive of the State of Virginia, in answer to his of the 24th ultimo, stating that an appointment to fill the vacancy in the Senate, occasioned by the decease of Henry Tazewell, would, probably, be deferred to the meeting of their Legislature.

### **SATURDAY, February 16.**

CHARLES PINCKNEY, elected a Senator by the Legislature of the State of South Carolina, in place of John Hunter, resigned, produced his credentials, and the oath prescribed by law being administered to him, he took his seat in the Senate.

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The Senate proceeded to consider the amendments reported by the committee to the bill giving eventual authority to the PRESIDENT OF THE UNITED STATES to augment the Army.

On motion, to agree to the amendment reported to the 7th section, to read as follows:

"SEC. 7. *Be it further enacted*, That it shall be lawful for the PRESIDENT OF THE UNITED STATES to call forth and employ the said volunteers in all cases, and to effect all the purposes for which he is authorized to call forth and employ the militia, by the act, entitled 'An act to provide for the calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for these purposes:'"

It passed in the affirmative, as follows:

YEAS.—MESSRS. Bingham, Chipman, Foster, Goodhue, Greene, Gunn, Howard, Laurance, Livermore, Lloyd, Marshall, Paine, Ross, Sedgwick, Tracy, Watson, and Wells.

NAYS.—Messrs. Anderson, Bloodworth, Langdon, Martin, Mason, Pinckney, and Tattnall.

SATURDAY, February 23.

The bill, sent from the House of Representatives, entitled "An act to grant an additional compensation from the year one thousand seven hundred and ninety-nine, to certain officers of the Senate and House of Representatives of the United States," was read the second time.

*Ordered*, That it be referred to MESSRS. LIVERMORE, PAINE, and WELLS, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill to augment the salaries of the principal officers of the Executive Departments, which was adopted; and

The question to agree to the third reading of the bill as amended, was determined in the affirmative—yeas 22, nays 3, as follows:

YEAS.—MESSRS. Bingham, Bloodworth, Chipman, Davenport, Foster, Goodhue, Greene, Hillhouse, Howard, Laurance, Lloyd, Marshall, Martin, Paine, Pinckney, Read, Sedgwick, Stockton, Tattnall, Tracy, Watson, and Wells.

### MONDAY, February 25.

The Senate resumed the third reading of the bill, authorizing the acceptance, from the State of Connecticut, of a cession of jurisdiction of the territory west of Pennsylvania, commonly called the Western Reserve of Connecticut; and the question on the final passage of the bill was determined in the affirmative—yeas 16, nays 12, as follows:

YEAS.—Messrs. Chipman, Davenport, Foster, Goodhue, Greene, Gunn, Hillhouse, Livermore, Lloyd, Marshall, Paine, Read, Sedgwick, Stockton, Tracy, and Wells.

NAYS.—Messrs. Bingham, Bloodworth, Brown, Howard, Langdon, Latimer, Laurance, Martin, Mason, Pinckney, Ross, and Watson.

### FRIDAY, March 1.

The Senate resumed the third reading of the bill, sent from the House of Representatives, entitled "An act to establish the Post Office of the United States."

On motion, to add the following to the amendment of the 17th section:

"*And, provided*, That all the letters and packets franked by any one member, in any one week, shall not exceed thirty ounces; and such privilege shall continue:"

It was determined in the negative—yeas 13, nays 17, as follows:

YEAS.—Messrs. Bingham, Davenport, Goodhue, Hillhouse; Howard, Livermore, Lloyd, Paine, Ross, Sedgwick, Stockton, Watson, and Wells.

NAYS.—Messrs. Anderson, Bloodworth, Brown, Chipman, Foster, Greene, Gunn, Langdon, Latimer, Laurance, Marshall, Martin, Mason, Pinckney, Read, Tattall, and Tracy.

### SATURDAY, March 2.

The bill, sent from the House of Representatives, entitled "An act authorizing a detachment from the militia of the United States," was read the second time.

On the question to agree to the third reading of the bill, it was determined in the affirmative—yeas 17, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Foster, Goodhue, Greene, Gunn, Howard, Langdon, Laurance, Lloyd, Marshall, Martin, Mason, Pinckney, Ross, Tattall, and Watson.

NAYS.—Messrs. Bingham, Chipman, Davenport, Hillhouse, Latimer, Livermore, Paine, Read, Sedgwick, Stockton, Tracy, and Wells.

### SATURDAY EVENING, March 2.

A message from the House of Representatives, informed the Senate that the House, having finished the business before them, are about to adjourn without day.

The Senate then proceeded to the consideration of Executive business.

The Senate, then, resuming Legislative business, adjourned without day.

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## FIFTH CONGRESS.—THIRD SESSION.

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### PROCEEDINGS AND DEBATES

IN

### THE HOUSE OF REPRESENTATIVES.

### MONDAY, December 3, 1798.

This being the day appointed by the constitution for the annual meeting of Congress, a number of members of the House of Representatives assembled in their Chamber.

The following are the names of the members present:

*From New Hampshire.*—ABIEL FOSTER, JONATHAN FREEMAN, WILLIAM GORDON, and PELEG SPRAGUE.

*From Massachusetts.*—DWIGHT FOSTER, SAMUEL LYMAN, HARRISON G. OTIS, GEO. THATCHER, JOSEPH B. VARNUM, and PELEG WADSWORTH.

*From Rhode Island.*—THOMAS TILLINGHAST.

*From Connecticut.*—SAMUEL W. DANA, CHAUNCEY GOODRICH, and ROGER GRISWOLD.

*From New York.*—DAVID BROOKS, HENRY GLENN, JONATHAN N. HAVENS, and HEZEKIAH L. HOSMER.

*From New Jersey.*—JONATHAN DAYTON, (the Speaker.)

*From Pennsylvania.*—DAVID BARD, JOHN CHAPMAN, WILLIAM FINDLAY, ALBERT GALLATIN, JOHN A. HANNA, BLAIR McCLENACHAN, and RICHARD THOMAS.

*From Maryland.*—GEORGE DENT.

*From Virginia.*—JOHN CLOPTON, JOHN DAWSON, DAVID HOLMES, JAMES MACHIR, and DANIEL MORGAN.

*From North Carolina.*—MATTHEW LOCKE, NATHANIEL MACON, and RICHARD STANFORD.

*From Tennessee.*—WILLIAM CHARLES COLE CLAIBORNE.

*From Georgia.*—ABRAHAM BALDWIN.

Three new members, to wit: JONATHAN BRACE, returned to serve in this House as a member for Connecticut, in the room of Joshua Coit, deceased; ROBERT WALN, returned to serve as a member for Pennsylvania, in the room of John Swanwick, deceased; and JOSEPH EGGLESTON, returned to serve as a member for Virginia, in the room of William B. Giles, who has resigned his seat; appeared, produced their credentials, and took their seats in the House.

A little after 12 o'clock the SPEAKER of the House took his chair, the names of all the members were called over by the Clerk, and there appearing only forty persons, (fourteen short of a quorum,) a motion was made to adjourn, and the House adjourned accordingly till to-morrow at 11 o'clock.

### **TUESDAY, December 4.**

Several other members, to wit: from Massachusetts, STEPHEN BULLOCK; from New Jersey, JAMES H. IMLAY; from Pennsylvania, JOHN WILKES KITTERA; from Maryland, GEORGE BAER, Jr., WILLIAM CRAIK, and SAMUEL SMITH; from Virginia, ANTHONY NEW, ABRAM TRIGG, JOHN TRIGG, and ABRAHAM VENABLE; from North Carolina, THOMAS BLOUNT; and from South Carolina, WILLIAM SMITH; appeared and took their seats in the House.

A new member, to wit: ROBERT BROWN, returned to serve in this House as a member for Pennsylvania, in the room of Samuel Sitgreaves, appointed a Commissioner of the United States under the sixth article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, appeared, and took his seat in the House.

But a quorum of the whole number not being present, the House adjourned.

### **WEDNESDAY, December 5.**

Several other members, to wit: from Massachusetts, ISAAC PARKER, JOHN READ, SAMUEL SEWALL, and WILLIAM SHEPARD; from Connecticut, NATHANIEL SMITH; from New York, LUCAS ELMENDORPH, JOHN E. VAN ALLEN, and JOHN WILLIAMS; from New Jersey, JAMES SCHUREMAN; and from South Carolina, ROBERT GOODLOE HARPER and JOHN RUTLEDGE, Jr., appeared, and took their seats in the House.

And a quorum consisting of a majority of the whole number, being present,

The oath or affirmation, 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 administered by Mr. SPEAKER to the following new members, to wit: JONATHAN BRACE, ROBERT BROWN, ROBERT WALN, and JOSEPH EGGLESTON, who took their seats in the House on the third and fourth instant.

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*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.

### **SATURDAY, December 8.**

Several other members, to wit: from Connecticut, WILLIAM EDMOND; from Maryland, JOHN DENNIS and WILLIAM HINDMAN; and from Virginia, THOMAS EVANS and WALTER JONES, appeared and took their seats in the House.

The House having been called to order, and the journal read, the SPEAKER observed that the hour was nearly arrived at which the President had proposed to make his communications to both Houses, and read a resolution which was usually entered into on such occasions, informing the Senate that this House is formed, and ready to receive any communications which the President may be pleased to make to them. The resolution was adopted, and a message having been sent to the Senate therewith, the members soon after entered and took the places prepared for them.

At twelve o'clock, Lieutenant General WASHINGTON, with his Secretary, Colonel LEAR, Major Generals PINCKNEY and HAMILTON, entered the Hall, and took their places on the right of the SPEAKER'S chair. The British and Portuguese Ministers, and the British and Danish Consuls, with their Secretaries, had their places assigned them on the left of the chair.

### ***President's Speech.***

A few minutes after 12, the PRESIDENT OF THE UNITED STATES, accompanied by his Secretary, and the Heads of the several Departments of the Government, appeared. The PRESIDENT having taken his seat, and the officers of Government theirs, near the general officers, he rose and addressed the two Houses as follows:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

While with reverence and resignation we contemplate the dispensations of Divine Providence, in the alarming and destructive pestilence with which several of our cities and towns have been visited, there is cause for gratitude and mutual congratulations that the malady has disappeared, and that we are again permitted to assemble in safety at the seat of Government, for the discharge of our important duties. But, when we reflect that this fatal disorder has, within a few years, made repeated ravages in some of our principal seaports, and with increased malignancy; and, when we consider the magnitude of the evils arising from the interruption of public and private business, whereby the national interests are deeply affected, I think it my duty to invite the Legislature of the Union to examine the expediency of establishing suitable regulations in aid of the health laws of the respective States; for, these being formed on the idea that contagious sickness may be communicated through the channels of commerce, there seems to be a necessity that Congress, who alone can regulate trade, should frame a system which, while it may tend to preserve the general health, may be compatible with the interests of commerce and the safety of the revenue.

While we think on this calamity, and sympathize with the immediate sufferers, we have abundant reason to present to the Supreme Being our annual oblations of gratitude for a liberal participation in the ordinary blessings of His Providence. To the usual subjects of gratitude, I cannot omit to add one of the first importance to our well-being and safety: I mean that spirit which has arisen in our country against the menaces and aggression of a foreign nation. A manly sense of national honor, dignity, and independence, has appeared, which, if encouraged and invigorated by every branch of the Government, will enable us to view, undismayed, the enterprises of any foreign power, and become the sure foundation of national prosperity and glory.

The course of the transactions in relation to the United States and France, which have come to my knowledge during your recess, will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States towards an amicable adjustment of differences with that power. You will, at the same time, perceive that the French Government appears solicitous to impress the opinion that it is averse to a rupture with this country, and that it has, in a qualified manner, declared itself willing to receive a Minister from the United States, for the purpose of restoring a good understanding. It is unfortunate for professions of this kind that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a Minister of the United States should possess; and that while France is asserting the existence of a disposition, on her part, to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation that the decree of the Directory, alleged to be intended to restrain the depredations of French cruisers on our commerce, has not given, and cannot give, any relief; it enjoins them to conform to all the laws of France relative to cruising and prizes, while these laws are themselves the sources of the depredation of which we have so long, so justly, and so fruitlessly complained.

The law of France enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of British fabric or produce, although the entire property belongs to neutrals, instead of being rescinded, has lately received a confirmation, by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French Government only a power regardless of their essential rights, of their independence and sovereignty; and, if they possess the means, they can reconcile nothing with their interests and honor but a firm resistance.

Hitherto, therefore, nothing is discoverable in the conduct of France which ought to change or relax our measures of defence; on the contrary, to extend and invigorate them is our true policy. We have no reason to regret that these measures have been thus far adopted and pursued; and, in proportion as we enlarge our view of the portentous and incalculable situation of Europe, we shall discover new and cogent motives for the full development of our energies and resources.

But, in demonstrating by our conduct that we do not fear war, in the necessary protection of our rights and honor, we shall give no room to infer that we abandon the desire of peace. An efficient preparation for war can alone ensure peace. It is peace that we have uniformly and perseveringly cultivated, and harmony between



us and France may be restored at her option. But to send another Minister, without more determinate assurances that he would be received, would be an act of humiliation to which the United States ought not to submit. It must, therefore, be left to France, if she is indeed desirous of accommodation, to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rites of embassy. And with a sincere disposition on the part of France to desist from hostility, to make reparation for the injuries heretofore inflicted on our commerce, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse. In making to you this declaration, I give a pledge to France and to the world that the Executive authority of this country still adheres to the humane and pacific policy which has invariably governed its proceedings, in conformity with the wishes of the other branches of the Government and of the people of the United States. But considering the late manifestations of her policy towards foreign nations, I deem it a duty deliberately and solemnly to declare my opinion, that, whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty, and ensure its observance.

Among the measures of preparation which appear expedient, I take the liberty to recall your attention to the Naval Establishment. The beneficial effects of the small naval armament provided under the acts of the last session, are known and acknowledged. Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy than we have derived from the arming for our maritime protection and defence. We ought, without loss of time, to lay the foundation for an increase of our Navy to a size sufficient to guard our coast, and protect our trade. Such a naval force as it is doubtless in the power of the United States to create and maintain, would also afford to them the best means of general defence, the safe transportation of troops and stores to every part of our extensive coast. To accomplish this important object, a prudent foresight requires that systematical measures be adopted for procuring, at all times, the requisite timber and other supplies. In what manner this shall be done, I leave to your consideration.

*Gentlemen of the House of Representatives:*

I have directed an estimate of the appropriations which will be necessary for the service of the ensuing year to be laid before you, accompanied with a view of the public receipts and expenditures to a recent period. It will afford you satisfaction to infer the great extent and solidity of the public resources, from the prosperous state of the finances, notwithstanding the unexampled embarrassments which have attended commerce. When you reflect on the conspicuous examples of a patriotism and liberality which have been exhibited by our mercantile fellow-citizens, and how great a proportion of the public resources depends on their enterprise, you will naturally consider, whether their convenience cannot be promoted and reconciled with the security of the revenue, by a revision of the system by which the collection is at present regulated.

During your recess, measures have been steadily pursued for effecting the valuations and returns directed by the act of the last session preliminary to the assessment and collection of a direct tax. No other delays or obstacles have been experienced except such as were expected to arise from the great extent of our country, and the magnitude and novelty of the operation, and enough has been accomplished to assure a fulfilment of the views of the Legislature.

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I cannot close this Address, without once more adverting to our political situation, and inculcating the essential importance of uniting in the maintenance of our dearest interests: and I trust that, by the temper and wisdom of your proceedings, and by a harmony of measures, we shall secure to our country that weight and respect to which it is so justly entitled.

JOHN ADAMS.

UNITED STATES, *December 8, 1798.*

The PRESIDENT having finished his Address, after sitting a few moments, presented the President of the Senate and Speaker of the House of Representatives, each of them, with a copy of it, and withdrew, and after him the Heads of Departments, Senators, general officers, foreign Ministers, &c. The SPEAKER then took his chair, and after calling the House to order, proceeded, as is usual, to read over the Speech, which being finished, it was committed to a Committee of the whole House for Monday, and ordered to be printed. The House then adjourned.

### **MONDAY, December 10.**

A new member, to wit: RICHARD DOBBS SPAIGHT, returned to serve in this House as a member for North Carolina, in the room of Nathan Bryan, deceased, appeared, produced his credentials, and took his seat in the House; the oath to support the Constitution of the United States having been first administered to him by the SPEAKER.

***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. DENT in the chair; when

Mr. SPRAGUE proposed for adoption the following resolution:

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*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 subjects recommended to their consideration.

The resolution was agreed to without objection, and the committee rose and reported the resolution. The House took it up, concurred in it, and appointed a committee of five to prepare an answer accordingly.

The committee consists of MESSRS. DANA, VENABLE, HARPER, HOSMER, and BALDWIN.

**TUESDAY, December 11.**

Two other members, to wit: THOMAS SINNICKSON and MARK THOMPSON, from New Jersey, appeared and took their seats in the House.

**WEDNESDAY, December 12.**

Several other members, to wit: from Rhode Island, CHRISTOPHER G. CHAMPLIN; from Pennsylvania, THOMAS HARTLEY; and from Virginia, CARTER B. HARRISON; appeared, and took their seats in the House.

***Address to the President.***

Mr. DANA, from the committee appointed to draft a respectful Address in answer to the PRESIDENT'S Speech, made a report, which was committed for to-morrow.

**THURSDAY, December 13.**

PHILIP VAN CORTLANDT, from the State of New York, appeared, and took his seat.

***Address to the President.***

On motion of Mr. DANA, the House resolved itself into a Committee of the Whole on the Address yesterday reported, in answer to the Speech of the PRESIDENT OF THE UNITED STATES, and Mr. DENT having taken the chair, the Address was read, as follows, omitting the words printed within brackets, which were added as amendments: The words printed in italics were struck out in the discussion, so that the Address to be presented to the PRESIDENT contains the words printed within brackets, and does not contain those printed in italics.

JOHN ADAMS, *President of the United States*—

SIR: The House of Representatives unite with you in deploring the effects of the desolating malady by which the seat of Government and other parts of our country have recently been visited. In calling our attention to the fatality of its repeated ravages, and inviting us to consider the expediency of exercising our constitutional powers, in aid of the health laws of the respective States, your recommendation is sanctioned by the dictates of humanity and liberal policy. On this interesting subject we feel the necessity of adopting every wise expedient for preventing a calamity so distressing to individual sufferers, and so prejudicial to our national commerce.

That our finances are in a prosperous state, notwithstanding the commercial derangements resulting from this calamity, and from external embarrassments, is a satisfactory manifestation of the great extent and solidity of the public resources. Connected with this situation of our fiscal concerns, the assurance that the legal provisions for obtaining revenue by direct taxation will fulfil the views of the Legislature, is peculiarly acceptable.

Desirous as we are that all causes of hostility may be *exterminated* [removed] by the amicable adjustment of national differences, we learn with satisfaction, that in pursuance of our treaties with Spain and with Great Britain, advances have been made for definitively settling the controversies relative to the Southern and the North-eastern limits of the United States. With similar sentiments have we received your information, that the proceedings under commissions authorized by the same treaties, afford to a respectable portion of our citizens, the prospect of a final decision on their claims for maritime injuries committed by subjects of those powers.

It would be the theme of mutual felicitation, were we assured of experiencing

similar moderation and justice from *another Power*, [the French Republic,] between *whom* [which] and the United States differences have unhappily arisen. But this is denied us by the ultimate failure of the measures which have been taken by this Government towards an amicable adjustment of those differences, and by the various inadmissible pretensions on the part of that nation.

The continuing in force the decree of January last, to which you have more particularly pointed our attention, ought, of itself, to be considered as demonstrative of the real intentions of the French Government. That decree proclaims a predatory warfare against the unquestionable rights of actual commerce; which [with] our means of defence, our interest and our honor, command us to repel. It therefore now becomes the United States to be as determined in resistance as they have been patient in suffering, and condescending in negotiation.

While those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity.

As therefore the conduct of France hitherto exhibits nothing which ought to change or relax our measures of defence, the policy of extending and invigorating those measures, demands our sedulous attention. The sudden and remarkable advantages which this country has experienced from a small naval armament, sufficiently prove the utility of its establishment. As it respects the guarding of our coast, the protection of our trade, and the facility of safely transporting the means of territorial defence to every part of our maritime frontier, an adequate naval force must be considered as an important object of national policy. Nor do we hesitate to adopt the opinion, that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

In this conjuncture of affairs, while with you we recognize our abundant cause of gratitude to the Supreme Disposer of events for the ordinary blessings of Providence, we regard, as of high national importance, the manifestation, in our country, of a magnanimous spirit of resistance to foreign domination. This spirit merits to be cherished and invigorated by every branch of Government, as the estimable pledge of national prosperity and glory.

Disdaining a reliance on foreign protection, wanting no foreign guarantee of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, we confide, under Providence, in the patriotism and energies of the people of these United States for defeating the hostile enterprises of any foreign power.

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To adopt with prudent foresight such systematical measures as may be expedient for calling forth those energies wherever the national exigencies may require, whether on the ocean, or on our own territory—and to reconcile with the proper security of revenue, the convenience of the mercantile enterprise, on which so great a proportion of the public resources depends—are objects of moment, which shall be duly regarded in the course of our deliberations.

Fully as we accord with you in the opinion, that the United States ought not to submit to the humiliation of sending another Minister to France, without previous assurances sufficiently determinate that he will be duly accredited, we have heard, with cordial *acquiescence*, [approbation,] the declaration of your purpose, steadily to observe those maxims of humane and pacific policy by which the United States have hitherto been governed. While it is left with France to take the requisite steps for accommodation, it is worthy the Chief Magistrate of a free people, to make known to the world, that justice on the part of France will annihilate every obstacle to the restoration of a friendly intercourse, and that the Executive authority of this country will respect the sacred rights of embassy. At the same time, the wisdom and decision, which have characterized your past Administration, assure us that no illusory professions will seduce you into any abandonment of the rights which belong to the United States as [a] free and independent [nation.]

The clerk having read the Address, it was again read by the Chairman by paragraphs.

[After a few slight amendments the answer was agreed to.]

Mr. THATCHER wished, as no objection was made to the Address, that it might be entered on the journals as unanimously agreed to; but, on the question being put, a few noes being heard, the SPEAKER declared it not carried.

The usual resolution was then passed, that the SPEAKER, attended by the House, do present the Address, and that a committee be appointed to wait upon the PRESIDENT, to know when and where he will be pleased to receive the same.

Messrs. DANA, VENABLE, and HARPER, were appointed a committee for this purpose. They waited upon the PRESIDENT accordingly, and Mr. DANA reported that the PRESIDENT would receive the Address to-morrow, at his own house, at twelve o'clock.<sup>[37]</sup>

**FRIDAY, December 14.**

Several other members, to wit: JAMES COCHRAN, from New York; WILLIAM MATTHEWS, from Maryland; JOSIAH PARKER, from Virginia; and THOMAS PINCKNEY, from South Carolina, appeared, and took their seats in the House.

### ***Answer of the President.***

The hour having arrived at which the PRESIDENT had appointed to receive the Address of this House in answer to his Speech to both Houses, the SPEAKER announced it, and the House withdrew for the purpose of presenting the Address.

In about a quarter of an hour, the members returned; when the SPEAKER, having taken his chair, proceeded to read the answer to their Address, a copy of which had been put into his hand by the PRESIDENT. It was as follows:

*To the House of Representatives of the United States:*

GENTLEMEN: My sincere acknowledgments are due to the House of Representatives of the United States, for this excellent Address, so consonant to the character of Representatives of a great and free people. The judgment and feelings of a nation, I believe, were never more truly expressed by their Representatives than those of our constituents, by your decided declaration, that with our means of defence, our interest and honor command us to repel a predatory warfare against the unquestionable rights of a neutral commerce. That it becomes the United States to be as determined in resistance as they have been patient in suffering and condescending in negotiation. That, while those who direct the affairs of France persist in the enforcement of decrees so hostile to our essential rights, their conduct forbids us to confide in any of their professions of amity; that an adequate naval force must be considered as an important object of national policy; and that, whether negotiations with France are resumed or not, vigorous preparations for war will be alike indispensable.

The generous disdain you so coolly and deliberately express, of a reliance on foreign protection, wanting no foreign guaranty of our liberties, resolving to maintain our national independence against every attempt to despoil us of this inestimable treasure, will meet the full approbation of every sound understanding, and exulting applauses from the heart of every faithful American.

I thank you, gentlemen, for your candid approbation of my sentiments on the subject of negotiation, and for the declaration of your opinion, that the policy of extending and invigorating our measures of defence, and the adoption with prudent foresight of such systematical measures as may be expedient for calling forth the energies of our country, wherever the national exigencies may require, whether on the ocean or on our own territory, will demand your most sedulous attention.

At the same time, I take the liberty to assure you, it shall be my vigilant endeavor, that no illusory professions shall seduce me into an abandonment of the rights which belong to the United States, as a free and independent nation.

JOHN ADAMS.

UNITED STATES, *December 14, 1798.*

### **MONDAY, December 31.**

Several other members, viz: from Connecticut, JOHN ALLEN; and from Virginia, SAMUEL J. CABELL and THOMAS CLAIBORNE, appeared, and took their seats in the House.

### ***Remonstrance of Georgia.***

RECLAMATION FOR SACRIFICED TERRITORY—COMPARATIVE EXPENDITURE IN DEFENDING NORTHERN AND SOUTHERN FRONTIERS FROM INDIAN DEPREDATIONS.

The House then resolved itself into a Committee of the Whole, on the report of a select committee on the representation and remonstrance of the State of Georgia; which was read as follows:

"Report of the committee to whom was referred the representation and remonstrance of the Legislature of the State of Georgia:

"That a certain tract of country, within the limits of Georgia, bounded by a line beginning at the fork of Oconee and Ocmulgee Rivers, and thence running in a south-west direction, until it intersects the most southern part of St. Mary's River, thence down the river to the old line, was ceded by the Creek nation of Indians, to the said State, by a treaty held between the Commissioner of said State, and the Creek Indians at Galphinton, on the 12th of November, 1785, which tract of country was, by the Legislature of said State, formed into a county, by the name of Tallessee county; and the cession thereof was afterward confirmed, at a treaty held between the same parties, at Shoulderbone, on the 3d day of November, 1786.

"Your committee further report, that, by the treaty made at New York, between

the United States and the Creek Indians, bearing date on the 7th day of August, 1790, a boundary line was established between the said nation of Indians and the United States, whereby the above described tract of country, named Talessee county, was declared to be within the Indian territory.

"The committee have not been able to discover upon what principles the relinquishment of the territory of the State of Georgia was acceded to on the part of the United States; it is therefore to be presumed that it was done upon principles of general policy, with the intention of establishing a permanent peace between the United States and the said nation. They are, therefore, of opinion that compensation ought to be made to the State of Georgia for the loss of this territory, and recommend to the House to adopt the following resolution:

*"Resolved*, That the United States will make compensation to the State of Georgia, for the loss and damage sustained by that State, in consequence of the cession of the county of Talessee, made to the Creek nation, by the Treaty of New York, unless it shall be deemed expedient to extinguish the Indian title to the said land."

Mr. BALDWIN said, he should not call for the reading of the remonstrance, as it had already been twice read, and had also been published in the newspapers. The committee in their report have stated such parts of it as they thought necessary to lead the House to a decision. It is seen at once to relate to two objects: what they consider as a dismemberment of the State, by giving back to the Indians a district of country, called Talessee county, and the injurious operation of the act for regulating trade and intercourse with the Indians. He was himself at New York at the time when the treaty, called the Treaty of New York, was made; he knew well it was with great concern and reluctance that the Federal Government consented to an act which had so much the appearance of dismembering a State, as giving back Talessee county to the Indians; but that frontier was so extensive, the savages who border upon it were so much more numerous and hostile than any others in the United States, that they were induced to consent for a time to the relinquishment of that district to them, as the counterpart of all the other conditions which they obtained in that treaty. He was sure it was at that time their expectation and design to have before now peaceably repurchased it of the Indians. The act was not founded on any defect in the right of the State to that county; but a short time before, three Commissioners, viz: Gen. Lincoln, Judge Griffin, a former member of Congress, and Mr. Humphreys, who is now our Minister at Madrid, were sent to examine into the state of that frontier, and to form treaties with the neighboring tribes; they were unwearied in the execution of their trust, visited the frontier in person, collected the Indian chiefs to meet them there, to learn what information they could give; they afterwards returned to the seat of Government of Georgia, and examined the treaties, laws, and journals, and examined individuals on oath, so as to obtain all the information that it was possible to procure, on the spot. On their return they made a special and very full report, a copy of which is on the files of the House, and, without doubt, is to be regarded on those subjects as a document paramount to every thing else, at the time it was made. This document leaves no doubt of the fairness of the transaction in the treaties of 1785 and 1786, in which this Talessee county was purchased and contained, as stated by the committee. The giving it back, by the subsequent Treaty of New York, rested only on the importance and urgency of the case, as the only possible means of obtaining peace.

On the other point contained in the remonstrance, viz: the injurious operation of the law respecting trade and intercourse with the Indian tribes, he did not think it necessary now to make many observations, the report of the committee was, that it should be revised and amended; as that law expires by its own limitation with this session, it is a subject that must be taken up, and at that time he should submit to the consideration of the House the various matters which seemed to impress themselves so strongly upon the minds of his constituents.

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Mr. B. said, the report of the committee was peculiarly grateful to him, and he hoped the confirmation of it by Congress would be so to his constituents, because the individuals who composed the committee were so long and so well known in the United States, that their report will be likely to have a great effect in finally settling the minds of people on those old subjects of reproach and discord, especially as it is in direct conformity with the copious report of the three Commissioners who examined into the same subject on the spot, as he had before mentioned. This appeared to him to be a matter of great importance.

From the close of the Revolution to the present time, these reproaches have always been at the threshold, to encounter every thing that was proposed in behalf of that growing and important part of the United States. The Revolution had raged there to such a degree, and the minds of men were so embittered against each other, that it required more than the usual time for them to lay aside the fierceness of their hostility. Though their enemies were driven from them, yet they were not driven beyond the recoil of their resentment. This, joined to the disappointment of some pecuniary enterprises of individuals for gain, had been the cause of those malignant torrents of reproach which have but too long poured forth upon the greater part of their councils, and upon the most distinguished of their public servants.

It was well known to him, and to some who heard him, that their calls for protection on a very extensive and very turbulent frontier, had, till within these few years, always been repelled with reproaches, that they had never been any thing but an expense; were totally delinquent in bearing the burdens of the Revolution; that they had been carried through entirely at the expense of the other States; and that they ought not now to be protected any further till they were willing to pay requisitions. When this reproach was wiped off by the report of the General Board of Commissioners, on the settlement of the whole account of the old co-partnership of the

Confederation, and the very small number there, at that time, appeared to have done the proportion of the whole number by the census which was the rule of the settlement, and to have reimbursed the great delinquency of the loan officers appointed by Congress, for which they were made accountable, still they were told they must protect themselves, for they wronged the Indians out of their lands, and this was the cause of their suffering. It appears now, in the result, that they have always discharged all their Federal obligations, and much more, and instead of getting away the lands from the Indians, the Indians have got away their lands, and they cannot get them back.

He believed there could not be much doubt left but that the principles contained in the report of the committee were just and proper. These had been to him for many years very sore objects; the position in which he considered them immovably fixed gave him great pleasure. His constituents had not sent him here to play the champion. He thought it could not be denied that there was some ground for them to triumph over those who had so long vilified and abused them. He begged leave still further to urge the measures recommended by the committee, from the consideration of the small expenditures which have been made on that frontier, in proportion to the others.

The accounts of the military expenditures on the northern frontiers, were now more than ten millions of dollars. This had been begun, and principally originated from a regular expedition to destroy a village of fugitive Indians, who committed depredations on the northern frontier; a similar village on the southern frontier, called the Chehaw, was also destined by the Government for a similar expedition; but the measure failed in the Legislature, and that frontier was left to protect themselves. This has been done; the fugitives in that village have been driven off by a party of volunteers. He believed the whole amount of military expenditures on that frontier, till the time of entire peace with the Indians, did not exceed a quarter of a million, and nearly one hundred thousand of that the militia had now been kept out of for four or five years; though he hoped and trusted they would not much longer have cause of complaint on that head. After the observations which he had made, he thought no apology was necessary for some apparent harshness in the language of the remonstrance.

As to the course which it is proper to pursue in granting relief on the subject, he had not much to say. He was confident the expectations of the State were not unreasonable; he was sure they would be satisfied with any result which could be considered as fair and honorable; and his confidence in the House forbade him to suppose for a moment that it could be brought to any other. The course recommended by the committee in their resolution now under consideration, is either to make compensation to the State for the land which has been relinquished, and for the damages which they have sustained, or else to repurchase that district or another district, on that frontier, of equal value. He said he had laid on the table a certificate from the Surveyor General of that State, taken at that time, as to the length of the lines enclosing that district, and the probable contents of it. If the report of the committee should be agreed to, a bill might be reported in conformity to one or the other, or all of those principles, as might be thought proper. He was contented in leaving it to the judgment of the House.

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On the call of Mr. BROOKS, the representation and remonstrance were read. After which,

Mr. CHAMPLIN moved that the committee might rise, with a view of postponing this subject till the next session of Congress. He thought the language of the remonstrance too violent and indecorous to claim attention from the House. This opinion was also supported by Mr. DANA. MESSRS. BAYARD and N. SMITH wished this motion to prevail, because they doubted the propriety of the report, and supposed there would not be time thoroughly to investigate the business during this session.

On the other hand, MESSRS. PINCKNEY, RUTLEDGE, HARPER, GALLATIN, VENABLE, W. CLAIBORNE, J. PARKER, and MACON, were against the postponement. The objection to the language, it was said, was out of time. If made at all, it ought to have been made when the remonstrance was presented; that some allowance ought to be made for the language, as it appeared to have been drawn in a moment of passion; that if the claim was just, it ought not to be rejected because it was made in improper language, especially, since the Legislature of Georgia were not the only persons concerned, as the inhabitants on the frontier, while this subject is undecided, are suffering severely from Indian cruelties and depredations.

The question for leave to be given to the committee to sit again, was carried by 69 votes.

**TUESDAY, January 8, 1799.**

***Impressment of Seamen.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the House of Representatives:*

In compliance with your desire, expressed in your resolution of the 2d of this month, I lay before you an extract of a letter from George C. Morton, acting Consul of the United States at Havana, dated the 13th of November, 1798, to the Secretary of State, with a copy of a letter from him to L. Trezevant and William Timmons, Esqs., with their answer. Although your request extends no further than to such information as has been received, yet it may be a satisfaction to you to know that as soon as this intelligence was communicated to me, circular orders

were given, by my direction, to all the commanders of our vessels of war; a copy of which is also herewith transmitted. I also direct this intelligence and these orders to be communicated to His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States, and to our Minister Plenipotentiary to the Court of Great Britain, with instructions to him to make the proper representation to that Government upon this subject.

It is but justice to say that this is the first instance of misbehavior of any of the British officers towards our vessels of war, that has come to my knowledge. According to all the representations that I have seen, the flag of the United States, and their officers and men, have been treated by the civil and military authority of the British nation, in Nova Scotia, the West India Islands and on the ocean, with uniform civility, politeness, and friendship. I have no doubt that this first instance of misconduct will be readily corrected.

*Jan. 8, 1799.*

JOHN ADAMS.

[CIRCULAR.]

*To the Commanders of Armed Vessels in the service of the United States; given at the Navy Department, December 29, 1798.*

SIR: It is the positive command of the PRESIDENT, that on no pretence whatever, you permit the public vessel of war under your command to be detained, or searched, nor any of the officers or men belonging to her to be taken from her, by the ships or vessels of any foreign nation, so long as you are in a capacity to repel such outrage on the honor of the American flag. If force should be exerted to compel your submission, you are to resist that force to the utmost of your power, and when overpowered by superior force, you are to strike your flag, and thus yield your vessel, as well as your men; but never your men without your vessel.

You will remember, however, that your demeanor be respectful and friendly to the vessels and people of all nations in amity with the United States; and that you avoid as carefully the commission of, as the submission to, insult or injury.

I have the honor to be, sir, your obedient servant,

BEN. STODDERT.

Letters which accompanied the above Message:

***Extract of a letter from George C. Morton, acting Consul of the United States at the Havana, dated there the 18th November, 1798, to the Secretary of State.***

"By the delegation of Daniel Hawley, Esq., I am at present acting as Consul of the United States in this district, with which he will most probably have acquainted you. It imposes upon me the mortifying task of informing you, sir, of the partial capture of an American fleet under the convoy of the Baltimore sloop-of-war, — Phillips, Esq., commander, by a British squadron, off this harbor, accompanied with circumstances rather grating to the feelings of Americans, and by no means analogous to that good harmony which seems to subsist between the two Governments.

"The answer of Messrs. Trezevant and Timmons to my annexed note of the 17th instant, requesting an exact relation of the occurrence, will I presume be deemed as impartial a narration as can be given of the whole transaction, they having been passengers on board one of the captured vessels, and removed to the Baltimore.

"Mr. Morton adds, that Commodore Loring ordered the fifty-five men out of the Baltimore "on board of his ship, previous to any proposal of exchanging the natives of one nation for those of the other, and retained five of the hands as being British subjects, without giving an equal number of Americans, whom he acknowledged to have on board."

HAVANA, *November, 17, 1798.*

GENTLEMEN: As acting American Consul for this city and district, and of course obliged to forward the most correct statement possible to the Government of the United States officially, I would beg the favor of you, gentlemen, to furnish me with an exact relation, under your signatures, of the unpleasant occurrence which took place off the Moro Castle on the 16th instant, by which you will much oblige,

Gentlemen, your most obedient servant,  
GEO. C. MORTON.

L. TREZEVANT and W. TIMMONS, Esqs.

N. B.—It would be proper to premise that you were passengers, and your distance from the Moro Castle at the time of capture.

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HAVANA, *November 18, 1798.*

SIR: Agreeably to your request, we now commit to writing the best account we are able to give you of the conduct of Captain Loring, Commodore of the British squadron which was lately off the Moro, towards the United States ship Baltimore. We must observe, however, that all we can say of it is from the information of Captain Phillips, as we were not on board the Baltimore when she was visited by Captain L.'s officers.

In the morning of the 16th instant, we discovered this squadron when we were in sight of the Moro, and afterwards found it was composed of Captain Loring's ship, the Carnatic, of 74 guns; Captain —'s ship, the Thunderer, of the same force; Captain Dobson's ship, the Queen, of 98 guns; Captain Donnelly's frigate, the Maidstone, of 32 guns; and Captain Hardy's frigate the Greyhound, of the same force. We were passengers in the brig Norfolk, Captain Butler, which, together with the ship Eliza, Captain Baas, and the brig Friendship, Captain Fuller, were cut off from their entrance into port, and were all made prizes within gunshot of the Moro. We obtained leave to go on board the Baltimore with our baggage, and did so. When Captain Phillips discovered they were English ships, (which was before we were taken,) he stood towards them, and spoke the Commodore. After we got on board the Baltimore, the Captain informed us that he had been on board the Carnatic, and the Commodore told him he should take out of the Baltimore all such men as had not American protections; that he had remonstrated with him against showing such an indignity to our flag; that to do so would leave his ship in a very defenceless state, and would deprive him of nearly all his men, as not even those who were really Americans, or at least very few of them, could show protections, because it was always thought that our flag on board of a Government ship, was a sufficient protection. All this, however, was urged in vain. Captain P. returned to his ship, and the Commodore sent an officer on board the Baltimore, who carried away fifty-five of her men to the Carnatic. Captain Phillips remained in expectation that nearly all the rest would be taken from him; but whether the Commodore, upon reflection, thought better of it, or whatever else might have been his motive, he sent back fifty, and kept five, among whom was the ship's boatswain. Captain Loring proposed to give up a number of American seamen, who, he said, were in his fleet, if Captain P. would give him English subjects for them. Captain P. refused this offer, and the American seamen were not delivered to him. Before any of the men were returned, he sent a message to Captain P. to let him know if he, or one of his officers, would go on board of him, and point out who were Americans and who were not, he would return all the Americans; but this was declined also. After we got on board the Baltimore, he sent a letter to Captain P. which he showed to us, in which the Commodore "demanded" that he would give up all the British subjects on board the Baltimore. To this, Captain P. replied that he could not know any of his men as British subjects, nor could he, as commander of a ship, in the service of the United States, voluntarily give up any of his men; but if he thought fit to send an officer on board, with orders to take any number of his men, he should not oppose it. In this answer, Captain P. mentioned he should lay before the Executive of the United States a full account of the occurrences of the day. Shortly after sending this reply, the squadron set sail, and left the Baltimore. Commodore L. was very polite to us, and was so to Captain P. when he went on board; but Captain P. complained of indecent behavior from the inferior officers.

LEWIS TREZEVANT,  
WM. TIMMONS.

G. C. MORTON, Esq., *Vice Consul of the U. S. at Havana.*

The Message and documents were read, and ordered to lie on the table.

**MONDAY, January 14.**

EDWARD LIVINGSTON, from New York, appeared, and took his seat.

**MONDAY, January 21.**

***Intercourse with France, and her Islands.***

**SAN DOMINGO.**

The fourth section of the bill to suspend this intercourse being under consideration,

Mr. NICHOLAS said, there are some words in this section [in italics] which he did not understand, and if he could not get an explanation of them in any other way, he would move to strike them



out. They are not in the former law; and they are very extensive. They go to this, that a man in authority in one of these islands, be his authority as limited as it may, may make an agreement on the subject of intercourse different from what he is authorized to do by the Republic of France, and, in that case, the island is to be open for our commerce. He wished for some information on this subject.

Mr. S. SMITH understood, that the reason why these words had been introduced into the bill was, in order to meet the case of Hispaniola.<sup>[38]</sup> It was well known that a new agent had succeeded Hedouville there; that he has published a proclamation, stating, that notwithstanding the decree of the French Republic, which directs the seizure of all American vessels and their cargoes, whenever there shall be found on board an article of British manufacture, he was authorized to suspend that decree so far as relates to vessels coming to that island. And, Mr. S. said, if any agent in the West Indies could give assurances that no capture should take place from the island of which he is Governor, then the PRESIDENT shall be authorized to open our commerce with that Island. It was on this ground that he had given his consent to this clause of the bill.

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Mr. NICHOLAS said, if the clause were intended to meet the case to which the gentleman had alluded, the agent had his powers from the French Government, and whatever he did must be considered as done by that Government, until his power shall be revoked; but as the clause stood, it would authorize the PRESIDENT to treat with usurpers; not merely with persons in power, but with any persons having momentary possession of a place, and he could not agree to such a principle. Why, asked Mr. N., was this law originally passed? Was it not an order to bring France to terms by distressing her islands? Suppose France should say to one of her agents in the West Indies, "You shall be authorized to make a stipulation with the United States to take off the suspension of intercourse with respect to your Island." Would not this be to acknowledge that there our regulation pinched her? And would not the opening of intercourse with such a place, by relieving the distresses of France, defeat the original intention of the law? [Mr. HARPER asked if there was any question before the committee?] Mr. N. said he would make one by moving to strike out this section. A clause of this kind, Mr. N. said, held out an invitation to agents to abandon their country, and to set up Governments of their own. If it were to operate only in a partial manner, for the relief of such of the French islands as are so far distressed as that the Government should be willing to restrain her depredations, so far as related to those particular places, where will be the efficiency of the law afterwards? It will only prove a burden upon our own citizens, without injuring France. If we are to have a free trade with the West Indies, why deprive tobacco planters of going immediately to the country where the article is consumed, instead of going through Spain, and by other circuitous routes? But the other aspect of the bill, Mr. N. said, was the most extraordinary and exceptionable he ever saw. It authorized the PRESIDENT to treat with persons "claiming authority." This provision may produce consequences the most fatal. Suppose any of the islands make a separate negotiation with this country; what will be the effect of our having thus enticed them to disobey their Government? Will this Government not be chargeable with having assisted in detaching such a colony from its Government? And if so, could any thing afford a more lasting cause for war than an act of this kind? If there be any disposition in the French Government to treat, (which, however, the Secretary of State denies,) a conduct of this kind would effectually root it out, and there could be no treaty—no peace between the two countries—for years to come. If gentlemen, therefore, can give no better explanation of this clause than has already been given, he hoped it would be stricken out.

Mr. OTIS did not believe that a more unjustifiable jealousy ever entered the heated imagination of the gentleman from Virginia, than that which occupies it at this moment. He seems to think that this section of the bill is intended only to encourage usurpation and rebellion, whereas a slight attention should convince him, that when any one of the French islands or dependencies revolt and declare for independence, neither the law passed the last session nor this bill will apply to such a case. In such an event, there is nothing in the existing laws to prevent our carrying on a free trade with such revolted island. If attention be paid to the first section of the bill, it will be seen to apply only to such places as are under the acknowledged government of France; and the moment a place is no longer under her government, both the existing law and this section become null with respect to that place, and a new relation would be created which would be regulated under the law of nations. If a rebellion of this kind should break out, it would become a question to what extent we ought to carry on commerce with the rebellious place; and we should then be governed by existing circumstances. If we should be at war with France, we should doubtless, said Mr. O., avail ourselves of the trade to its full extent, without respect to her wishes; but if an accommodation of differences should be effected, and the mother country should prohibit all trade with the revolted island, it is not presumable that this Government would sanction any commerce that would provoke a war, or protect adventurers from the seizure and confiscation of their property.

But it is not enough, observed Mr. O., to say that this section does not relate to rebellious colonies; it is merely a provision to meet such conditions as the agents of the Executive Directory are entitled to make, consistently with their allegiance to their own country—such at least as they constantly undertake to propose. Without assuming to define the powers of these agents, it was very clear that they have undertaken to dispense with the decrees and laws of the Republic, whenever the exigencies of their Governments have, in their opinion, made it necessary or convenient.

At St. Domingo and at Guadaloupe, the agents seem to exercise an unlimited control over the trade and maritime concerns of those islands. He presumed they had a discretionary right given

to them to relax or suspend many of the decrees of the mother country, with respect to the territory they are appointed to govern. The uniform conduct of Santhonax and Polverel, and of all the Commissioners at St. Domingo, show this to be the case; and at Guadaloupe, Victor Hugues has proved himself to be nothing less than a despot. If this bill passed, these Commissioners may open the commerce with this country, even though an open war should exist between this nation and France. Nay, Mr. O. said, he had a proclamation of Hedouville, the late agent at Cape Francois, in his hand, which shows that he had determined to adopt this line of conduct.

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[Mr. O. read the proclamation which states that neutral ships and cargoes, that provisions and dry goods, shall be admitted into St. Domingo in American bottoms, that they shall not be seized when destined for French ports, but pass unmolested by French cruisers even if war should break out between the mother country and the United States.]

Now, said Mr. O., the interests of this country, and of our mercantile citizens in particular, require us to place ourselves in a situation to meet these advances. Can there be any difficulty in giving to the PRESIDENT a power with respect to the trade with a part of the French dominions, which he at present possesses over the whole? Gentlemen have said that an agent has arrived from a usurper in St. Domingo. Mr. O. said he did not know the fact. He did not know of any usurper in St. Domingo. He believed General Toussaint had succeeded Hedouville in the government of that island; that he had, in imitation of his superiors, sent him off in the same way as in the mother country are sent off those who may be obnoxious to the designs of the reigning and the strongest party. But it does not follow that these measures of General Toussaint will not be ratified by the French Government. The same General had heretofore sent off the commissioner Santhonax. He was not, however, for this cause declared to have forfeited his allegiance, but pains were taken to appease and reconcile him, and Santhonax came back. He was afterwards succeeded by Hedouville, who is, in his turn, sent on a voyage to France. But, said Mr. O., shall we now begin to examine into the legality of the powers of persons in authority, either in France or in her West India possessions? Have we not uniformly adhered to the principle that those who exercise power *de facto* are the only persons that we are bound to recognize? From the first dawn of the Revolution, we have, said he, never questioned the legitimacy of the power exercised in France; to us it seemed indifferent whether Jacobins or Girondists were at the helm of affairs; whether it was a reign of terror or of moderation. We have constantly sung hosannas and offered adorations to the great Republic, one and indivisible, without considering by whose hands the power was exercised. It is now too late to change this system. We have no way of knowing, said Mr. O., whether the agents of the Directory act in conformity to the will of their masters or not, until the Government declares them out of their allegiance. It will then be soon enough for us to determine the posture which good faith and policy require us to take.

But, the gentleman from Virginia says, we ought not to treat with individuals under any circumstances; but it appears probable that the French Republic may permit her agents to carry on this commerce, and to give us satisfactory assurances of safety and protection without a treaty; and such an arrangement would be advantageous to that Republic.

We find, indeed, said Mr. O., from the papers on the table, that one of the complaints of that Government is founded on this suspension of intercourse, and therefore to restore the trade in part is to diminish the cause of complaint. With respect to the remark of the gentleman from Virginia, that it was the object of the original act, by distressing France, to bring her to terms, he differed in opinion from him. It was merely a defensive measure. Our trade became so insecure, that it was necessary to do—what? conquer France? No; but to prevent the ruin which threatened our citizens, by prohibiting all intercourse with that country and its dependencies; and whenever an end is put to those aggressions and depredations, the suspension may be removed.

This, said Mr. O., is not a novel practice. At the commencement of the late war, the citizens of the Bahamas were excepted from the general regulations and orders prescribed to our privateers. It is very possible to be at war with a nation, and yet at peace with a certain portion of its territory. We find, by the papers on our table, that France says her privateers have transgressed their authority, and that they have now determined that no commissions shall be issued, except by their agents. Let us be prepared to meet them, if they will act accordingly; and if their agents in the Colonies restrain privateering, and depredations within their respective jurisdictions, let us avail ourselves of their good dispositions without any nice inquiries.

Mr. O. had said, that this law had no allusion to any country in rebellion; but he could conceive it possible that St. Domingo may declare itself independent, and become so, in spite of the opposition of France, or the wishes of this country. Far be it from me, continued Mr. O., to contend that it is desirable for the interest of the United States that such an event should happen; such a doctrine at this moment would be unseasonable and improper; but, if it does take place, he might say, without offence, it would be good policy to be upon the best terms with the persons in authority there; if not, the inhabitants of that island may become pirates upon our trade, and do us more mischief than we formerly suffered from the Barbary Powers. To prevent which, let us feed and clothe them, and deprive them of inducements to quit their island.

Mr. HARPER did not know that he could give an explanation of this section which would be satisfactory to the gentleman from Virginia; but he would state what was the intention of the bill, and what he thought would be its effects. He conceived that the section now under consideration is in strict conformity with the bill heretofore passed. The object of that bill was twofold; first, to save our commerce from that speculative and hazardous enterprise which the high profits made by successful voyages enticed the merchant to go into, which was a species of gambling by which some made large fortunes, and others sustained heavy losses. This trade was something of the

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nature of faro-banks, or lotteries, which all good Governments have thought proper to prohibit. The Government of this country thought it wise to interfere, and say to the merchants: "You shall not run these great risks; for though a few of you make great gain by the trade, the loss upon the whole is much greater than the gain." This was one object. The other was, to deter the French nation, and those exercising authority under it, from committing depredations upon our commerce, and thus procure protection to our trade. By what means was this to be accomplished? By withholding from the French those articles of prime necessity which they were accustomed to receive through the medium of commerce, to produce an effect which they should feel.

Let us examine, said Mr. H., whether this section is in conformity to these two objects. There could be no doubt with respect to the first, because if you can prevail upon those who heretofore encouraged privateering, to forbear to make further depredations, our commerce will unquestionably be rendered safe. The reason, therefore, for laying the restriction, is thus removed; and he saw no reason why it should be continued.

Mr. GALLATIN said, one of the objects of this bill when it passed at the last session, was to prevent depredations upon our commerce; but a majority of the House who voted for it, did so with a view of compelling France, by the loss of our trade to her islands, to come to reasonable terms of settlement with the United States. It was then said by some gentlemen, that it was not improbable that the trade to the West Indies was even more advantageous to the United States than to France, valuable as it was to her; and that, therefore, it would not produce the effect predicted. This was his opinion, and he therefore voted against the bill. But, though he voted against this measure, and some others, which, he thought at the time premature, yet a majority of Congress having, by adopting them, placed the nation in its present situation, whatever his opinion might then have been, and whatever it might now be, as to the probability of an end being put to our differences with France, he should think it bad policy, under present circumstances, to recede from the ground then taken, since such a conduct could betray nothing but weakness, and tend to defeat the object which all doubtless have in view, whatever might be the different opinions of obtaining it, an honorable peace. Though this law, therefore, was limited to the present session, he was ready to vote for a continuance of it; but the section now under consideration goes entirely upon new ground, and entirely different to any either taken or avowed at the last session.

The law now in existence, said Mr. G., has a section something similar to this, though widely different in substance. It is to this effect; that if, before the next session of Congress, the Government of France, and all persons under its authority, shall disavow and be found to refrain from depredations upon our commerce, then it shall be lawful for the PRESIDENT to suspend the operation of this law. Not to any part, but with the whole. By that law, we said, "We are not yet at war with you, we will adopt such measures as we think necessary for our present situation. We will suspend commerce with you as a nation; but if you, as a nation, shall disavow and refrain from depredations, we have given the PRESIDENT power to renew our commercial intercourse with you."

But what, said Mr. G., is the language of this section? It is this. [He read the section as above.] It is, that if any part of the nation, or any commanding officer, or person claiming authority, in any one port, or island, shall take those steps which we consider necessary for that nation to take, it shall be lawful for the PRESIDENT to remit and discontinue the restraints, prohibitions, &c. Instead of taking a general national ground, it provides for the negotiation of an individual, on his private account, who may either exercise, or claim to exercise, authority in any island, &c.

We are not, said Mr. G., at war, and an act of this kind is an act which, if it can be justified at all, can only be made use of in a state of war. It is only in such a state that we are authorized to declare, that we will act a different part with certain parts of a country at war, from what we meant to act with the whole; that we will negotiate, treat, make specific regulations with private individuals, provided they shall do—what? Disavow what the French Republic does not disavow. The present act makes it necessary for the disavowal to come from the Government; but this section says, "that although the French Government shall not disavow or restrain her depredations, &c., yet if an individual shall do it, we will open a trade with this individual." This would be to encourage insurrections. It is establishing a doctrine which is reprobated almost every day on this floor—that it is right to divide a people from their Government.

Mr. G. conceived, therefore, that the question comes to this: Is it proper to give power to the PRESIDENT, under our present circumstances, to stipulate with certain agents, that in case they will disobey their Government, by declaring themselves independent, or by throwing themselves into other hands, we will renew our commercial intercourse with you? No man, said Mr. G., will deny that a trade of this kind would be advantageous to the United States; he believed it to be one of the most lucrative branches of our commerce; but it was nevertheless thought proper, at the last session, to suspend it, in order, as then supposed, to effect a greater good. Therefore, this commerce being advantageous to the United States, is not a sufficient reason why this measure should be taken, if it be wrong in itself, and may produce greater mischiefs than the trade can do us good.

What, said Mr. G., are the inconveniences which would arise from a measure of this kind? It must be allowed, in the first place, that it would give the lie to all our former declarations of abhorrence against the attempts of other countries to divide the people of a nation from their Government; for we here, said he, assume the ground that it is proper to negotiate and stipulate with a part of the people, with a certain district of a country, with any person who shall choose to say that he claims the right of governing in any place. We abandon the general ground of treating

with a foreign Government, and determine to treat with any individual who may either have, or claim to have, authority. Mr. G. believed a principle of this kind at all times improper; and it would be peculiarly improper in us to act upon it, with respect to a nation, against which we have so many grounds of complaint of this kind. He had already stated, that it could only be justified in a state of war, if then, to hold out encouragement to insurrection and rebellion to the colonies of another country.

Mr. G. believed he might go so far as to say that this section was not inserted to meet the case spoken of by the gentleman from Maryland; but for the admission of one which had been a subject of discussion in the newspapers for some time past. He meant what was generally understood by the mission of Toussaint, a black General, of St. Domingo. It had been asserted, from the moment of the arrival of a supposed agent, that he came here with the late Consul of the United States at that port; that he brought despatches from Toussaint to our Government. Further than this, we have seen, in some of the newspapers printed at the eastward, that this mission is likely to have some effect. We have seen it there stated, "that the President is neither rash nor diffident, and that good effects may be expected to flow from this mission." So far, on the authority of the public newspapers, and none of these assertions have been denied.

Should I be doing right, said Mr. G., to say that I believe that this section of the bill is an effect of that negotiation? It is true I only deduce this from probability, but the probability is strong. Mr. G. said he knew that the independence of St. Domingo had been a favorite theme with gentlemen, and they had made an appeal upon it to the avarice of the people of the United States, that, in case of war, this independence would be of advantage to the United States, and that, during a time of peace, the minds of the people ought to be prepared for this event. But gentlemen seem to think that the public mind is not yet ready for this change, or they do not choose to avow the object of this mission. Which, he could not tell; but he would advise those gentlemen who have received information on this subject to communicate it. Mr. G. said he should be happy to know the subject of the despatches of General Toussaint. What is his offer to our Government? Whether his ideas go to independence or not? Whether he is in any way connected with the British Government, or not? Whether the sudden and extraordinary evacuation of St. Domingo by General Maitland was to promote something of this kind, or to support the force of General Toussaint? He should wish to know what is the disposition of the Executive with respect to this business, so far as it shall have come to the knowledge of any of these gentlemen. He would also be glad to know the disposition of this agent, or the nature of his object, at least so much of it as may have escaped at any *petit soupér* or *dinér*, at which these gentlemen may have been parties? If any such information could be obtained, it might tend to throw some light upon the subject. If he should be mistaken in his views of it, it would be wholly owing to his being deprived of that information, which he believed either the Executive, or some of the members on this floor possess.

Mr. G. believed the object of this section is to give encouragement to the black General in his present views. A single sentiment had dropped from the gentleman from Massachusetts (Mr. OTIS) in the course of the debate, which had given rise to part of what he had said on this subject, and which led him to believe that he had some information which he ought to communicate. He said, "if St. Domingo should finally be independent, it was proper to cultivate a good understanding with that island at present, and not refuse"—what? "to hold out certain encouragement to them in such an event." When? Now; so that we are not only to cultivate a good understanding with St. Domingo, if it should become independent, but in the expectation of it, and before it takes place, it is proper to cultivate a good understanding with that island, by holding out the encouragement proposed by this bill. This was nothing less than to confess that this section is inserted in the bill to encourage Toussaint to declare the island independent. Nay, his views, if he is a man of sense, must go further; he must not only secure a temporary trade, but he would also desire to know whether it be the wish of this country that St. Domingo should become independent; because he should suppose that if the Government of the United States was opposed to such an event, a temporary trade would not be a sufficient inducement to him to throw off his present allegiance.

To me, however, said Mr. G., if it be the intention of the General to declare it, the independence of St. Domingo is a very problematical event. It would certainly be the interest of Great Britain to oppose an attempt of this kind; since it could not be her interest to have a black Government there. But supposing the event possible, he should consider it as extremely injurious to the interests of the United States. Suppose that island, with its present population, under present circumstances, should become an independent State. What is this population? It is known to consist, almost altogether, of slaves just emancipated, of men who received their first education under the lash of the whip, and who have been initiated to liberty only by that series of rapine, pillage, and massacre, that have laid waste and deluged that island in blood; of men, who, if left to themselves, if altogether independent, are by no means likely to apply themselves to the peaceable cultivation of the country, but will try to continue to live, as heretofore, by plunder and depredations. No man, said Mr. G., wishes more than I do to see an abolition of slavery, when it can be properly effected; but no man would be more unwilling than I to constitute a whole nation of freed slaves, who had arrived to the age of thirty years, and thus to throw so many wild tigers on society.<sup>[39]</sup> If the population of St. Domingo can remain free in that island, he had no objection; but, however free, he did not wish to have them independent, and he would rather see them under a government that would be likely to keep them where they are, and prevent them from committing depredations out of the island. But if they were left to govern themselves, they might become more troublesome to us, in our commerce to the West Indies, than the Algerines ever were in the Mediterranean; they might also become dangerous neighbors to the Southern

States, and an asylum for renegadoes from those parts.

This being the case, Mr. G. said, he must deprecate every encouragement which may be held out to produce such an event. Did not gentlemen recollect what an alarm was sounded last year, with respect to the probability of an invasion of the Southern States from the West Indies; an alarm upon which some of the strongest measures of the last session were grounded? Mr. G. could not help hoping, there would be a general wish not to take any measure which may embody so dangerous a description of men in our neighborhood, whose object may be plunder, and who might visit the States of South Carolina and Georgia, and spread their views among the negro people there, and excite dangerous insurrections among them. He did not wish, therefore, to see this black population independent; and that the interest will be wholly black is clear. The General is black, and his agent here is married to a black woman in this city. Mr. G. did not mean by this to throw any reflection upon the General. He believed he had behaved well to Americans. His remarks were general, and were only intended to show that it would be with a black population we must treat.

### WEDNESDAY, January 23.

Mr. S. SMITH said, that if he thought with the gentleman from Pennsylvania, that the clause under consideration was connected with the mission from Toussaint, and the separation of Hispaniola from France, or with an intention of dividing the people of that island from their Government, he should also be opposed to it; but believing, as he did, that it would be productive of none but good effects to this country, he was in favor of retaining the clause.<sup>[40]</sup>

It might be well, Mr. S. said, to take a view of the relation which had subsisted between France and her colonies for some years back. Early in the Revolution, Santhonax and Polverel were sent as Commissioners to Hispaniola, for the purpose of governing the island, and to carry into effect the decree of the French Government for liberating the slaves. They conducted themselves in a friendly manner towards America, but destructively to the northern part of Hispaniola, and particularly towards Cape Francois. The disastrous contest which took place between the whites and blacks, to the destruction of the former, is well known. From the abuse of their power, these Commissioners were recalled. Polverel had not sufficient courage to appear before the French Government, and put an end to his existence. Santhonax went to France, and was sent out again to the island. Still he was favorable to this country, until the decree of France declared that their vessels of war should treat neutral vessels in the same manner as neutral powers suffered Great Britain to treat them. Santhonax then issued his decree of December, 1797, and American vessels were taken and carried into Hispaniola indiscriminately, and unsuspectingly, not under the authority of France, but under the authority of this agent. Not content with this abuse of his power, Santhonax sent Deforneaux, the Commissioner of Guadaloupe, to the south side of Hispaniola, to carry his plans into effect there; but Rigaud, a man of color, and an honest man, who had gained the esteem of the people, who was in power there, frustrated the attempt. Deforneaux attempted to escape, but was taken and sent to France. We see, therefore, that Santhonax made no scruple to set aside the decrees of France; and in this manner has Rigaud ever done, repealing and preventing the execution of the decrees of France, whenever he disliked them. And was Rigaud punished by France for thus exercising his power or not? No; he was made Commander-in-chief of the south side of the island for having sent off Deforneaux. Hedouville succeeded Santhonax in the Government, and brought with him the power to execute or not, as he judged proper, the decree of the Directory directing the capture of neutral vessels with British manufactures on board. He determined that this decree should not be carried into effect against vessels bound to Hispaniola. Did he carry his purpose into effect? So far as his (Mr. S.'s) information went, he did.

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Here, then, we see Hedouville setting aside the decrees of France; and Rigaud has not only prevented American vessels from being condemned, but has thrown the captains of privateers into prison for daring to bring in American vessels, and has caused such as have been carried into Jacquemel, on account of not having a *rôle d'equipage*, to be delivered up immediately. Victor Hugues, upon the recall of Mr. Adet, ordered that all vessels carrying on trade to what he called rebel ports, should be brought in and made legal prizes of. This was another separate authority. He afterwards issued orders for the condemnation of vessels coming into Guadaloupe with a supercargo, who should either be an Irish or a Scotchman, though they had every necessary paper on board to show that they were bound to that port, and vessels were condemned for this alone; and this is not seen in any of the decrees of France. Mr. S. understood this clause as intended to meet cases of this kind; and, so far from this being offensive to France, it must be quite the reverse. Under this law, said Mr. S., the PRESIDENT will be enabled to say to these special agents, "if you will suspend your decrees with respect to your islands our trade shall be opened to you," and by this means give to our citizens a commerce which is a mine of gold to them. Such a conduct, he thought, must appear to every one perfectly reasonable.

The gentleman from Pennsylvania says that the independence of Hispaniola would be dangerous to the Southern States. But does this bill, said Mr. S., contemplate any such thing? Does it not say that the agents must be under the Government of France? If the island were to declare itself independent, we could not, said he, prevent our merchants from trading with it; or if it should be in a state of rebellion, they would trade with it at all risks, without coming under this act. This bill seems, instead of encouraging the independence of the island, to place an obstacle in the way of it. It promises to the commanding officer the trade of this country, so long as he remains attached to France, and forbears to deprecate upon our commerce; but the moment he declares



himself independent, that promise is no longer binding.

Certain words in this clause are complained of; and Mr. S. owned he did not like them himself. He meant the words, "shall clearly disavow;" and, if this motion should not prevail, he would move to strike them out. He should be satisfied if the islands refrained from depredating upon our trade, without making any disavowal. Mr. S. said he could by no means bring his mind to believe that this clause could give encouragement to the people of Hispaniola to rebel against their country. Toussaint, said he, is not the only Governor of that island. Rigaud, who, as he had already stated, is a man of color and a man of excellent character, who has great hold of the affections of the people, and whose attachments are also strong to the French Government, has also a considerable share of authority; and Toussaint, in his opinion, would not on this account dare to declare the island independent.

But suppose, said Mr. S., this independence were to take place, would all the danger to this country actually take place which has been stated? In his opinion the reverse would be true. Refuse to these people our commerce, and the provisions of which they stand in need, and you compel them to become pirates and dangerous neighbors to the Southern States; but, so long as you supply them, they will turn their attention to the cultivation of their plantations. If, on the contrary, they once get a taste for plunder, they will never settle to labor.

Mr. S. observed that it was the other day said that truth was the characteristic of the Federal party. It might be so, though he had found it otherwise; but the characteristics of party, he observed, always is detraction, suspicion, and jealousy, whether it be called this or that. On the present occasion he found jealousy and doubts had intruded on the minds of gentlemen who would, at other times, see very differently. He did not mean to throw any censure upon them on this account, because they doubtless believe themselves right. This party spirit, said Mr. S., is every where to be found. The gentleman from Connecticut had the other day said that he (Mr. S.) had constantly voted against every measure of defence, yet if he would have read the journals, he would have found the reverse the fact. [The Chairman doubted whether this was connected with the question.]<sup>[41]</sup> Mr. S. concluded by saying that the more gentlemen think on the subject, the more they will be convinced the bill is not pregnant with the mischiefs which they apprehend.

Mr. NICHOLAS said it would be difficult to ascertain precisely where truth is to be found; whether in the extremes of party or in a middle course. The gentleman from Maryland says party men are always in the wrong; therefore he supposed that gentleman to be of opinion that those who vibrate between two parties are always in the right. In considering this question, he should do it according to his best judgment. If his mind should be so operated upon by party spirit as not to see the truth, it would be his misfortune.

He believed, as he had already stated, that this bill, as it now stands, will authorize the PRESIDENT to negotiate with the subordinate agents of a Government against the will of that Government, and thereby promote a separation between the agent and his Government, by holding out a temptation to do certain acts not warranted by the Government. The House had been told, by two gentlemen from Massachusetts, that this cannot be the operation of the law, because it has no relation to a revolted colony; that when a revolt once takes place, the trade will open of itself, as the territory will no longer be under the authority of France. He wished to inquire into the truth of this doctrine, which one gentleman has asserted and another has endeavored to prove. Mr. N. asked if Toussaint should to-morrow declare himself independent, would the PRESIDENT be authorized to direct the collector of the customs to consider St. Domingo as no longer coming under the present law? In his own opinion, he could not, because it would be contrary to the practice of any other Government; and, if done, would give the lie to all the professions made by us on subjects of this kind. When the separation merely commences; when we know nothing of the means which the revolvers possess, but because some person chooses to declare a place independent, shall our Government interfere and acknowledge such a place independent? He asked whether any gentlemen in this House, who are so frequently called disorganizers, had ever broached a doctrine like this? He knew very well, without the authority of *Vattel*, which the gentleman from Massachusetts had introduced, that any nation is at liberty to take part in a rebellion; but it is a good cause of war. When a revolution is effected, then the country revolting becomes independent, and any nation may treat with it according to its will. But, if you take part with the revolvers, you place yourselves on the same ground with them in respect to the Government revolted against. And, said he, in case we give any assistance to any island belonging to France, in its revolt against that Government, we place ourselves in a state of war.

Mr. N. believed gentlemen are wrong in their construction of the present law, when they say if Toussaint were to declare himself independent to-morrow, that the Executive might immediately consider him so, and direct trade to be carried on with that island as heretofore. He believed the PRESIDENT would not do it, and that the present clause of this bill is founded upon the certainty that he would not. If this is the case, the same objection is in full force against the wording of this section. The gentleman from Massachusetts, first up, seems to acknowledge that this law is to have this operation. He, says, St. Domingo may become independent, and that therefore it is highly proper we should let them know what dependence they may have upon us; to let them know that they may expect all the advantages of independence. Is not this, said Mr. N., an acknowledgment of the effect which this law will have? That the moment they throw off the French yoke, they will receive all the assistance from this country which a free commerce can give them? Mr. N. thought the gentleman himself inflicted the deepest wound on this bill, for gentlemen cannot say that such an assurance is not a temptation to commit the act.

Mr. N. could readily believe that the trade of St. Domingo is very valuable to this country, and the

assertion of the gentleman from Maryland, that it is a "mine of gold," had confirmed that opinion; and he was really afraid that that gentleman's representing a commercial part of the country, and being himself deeply engaged in commerce, the importance of this trade may have too much weight in deciding a question of this kind, and be a means of disregarding the evils which may arise from it; but Mr. N. was of opinion, that a solid peace would be far more beneficial to commerce generally, than any temporary advantage of this kind. Besides, the principle upon which such advantages would be built, is something similar to that which would actuate a man to fall upon the property of his neighbor, because he is richer than himself.

But does not the same gentleman tell the House that the powers in St. Domingo are pretty equally balanced between General Toussaint and Rigaud, and that, therefore, if Toussaint attempted to establish the independence of the island, there could be no certainty of his success? Why, then, said Mr. N., should we go into a measure which might produce war between the two countries, when the advantage to be derived from it is so very doubtful? And he thought the danger from the proceeding was heightened by the circumstance which gentlemen have mentioned of there being so very large a body of people in arms there; for, since the powers are so nicely balanced, is it not probable that the government party, in case of a struggle, would have the advantage? And would it not be the height of madness for us to run the risk of having the large force of that island turned against us, in consequence of our improper interference between the colony and its government?

Mr. N. said, he could not overlook some considerations connected with this subject, which he thought of great importance. It is well known, (and he begged gentlemen who have the same desire to preserve the country in peace that he had, to pause at the suggestion,) that there are many gentlemen in this House who have been long in favor of coming to an open declaration of war against France; and he had every reason to believe that the same disposition yet exists in these gentlemen; but the same opportunity of making this declaration does not now exist. The public mind is not now so well prepared for entering upon a war as it was some time ago, because they believe things wear a better appearance. If then, said Mr. N., the same disposition exists for war; if these gentlemen think they or their country will be benefited by war, they may be very willing that France should declare it; and if it be possible that a wish of this sort may exist, it affords a full solution to the meaning of this bill.

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But we are told, said Mr. N., that we ought not to excite the animosity of the people of St. Domingo. Is our present situation calculated to produce this effect? Certainly not, since they are necessarily involved with the mother country; and to take the part proposed, he had already shown might be attended with the most direful consequences. He thought this country ought not to wish for the independence of St. Domingo in another point of view. However we may wish to see the naval power of France put down, so that they may not have it in their power, if they have the wish, to invade this country, it is highly important to us that the naval power of Europe should be divided. He did not think that it could be for the interest of this country that Great Britain should have a navy which should keep the world in awe, and subject it to her views; and if we assist in destroying the colonies of France, we shall be the means of throwing them and their naval power into the hands of Great Britain. He did not know that it mattered much to us whether St. Domingo was a colony of France or England, only as it would add to the naval strength of England. He hoped, therefore, the motion for striking out would prevail.

Mr. PINCKNEY observed, that so much had already been said on this subject, and the general principles of the bill had been so ably defended, that it would be unnecessary to make more than one or two remarks in reply to the gentleman from Virginia. That gentleman had gone altogether upon the idea of this bill being of so obnoxious a nature to the Government of France, that it must be considered by that government as a cause of war. He thought it had already been shown, that the gentleman was altogether mistaken; and, very unhappily for his position, our own experience was sufficient to determine whether it has ever been considered as a cause of war for neutral countries to trade with colonies revolting from a mother country. We know, said he, very well how neutral nations conducted towards us in our revolt from the Government of Great Britain. Mr. P. believed it was never understood that any nation with whom we traded was, in consequence, involved in war with Great Britain. The fact was otherwise. It was never so looked upon by that country, and gentlemen will admit that that Government was at least hightoned enough. All that Great Britain did was to seize the vessels whenever she could lay hold of them; and this is the risk which the gentleman from Maryland mentioned our traders would run in carrying commerce into any place in a state of revolution. It is well known that we endeavored, during the whole course of our war, to draw foreign commerce to this country, which was found necessary in order to enable us to carry on the war. Agents were employed for this purpose, and we saw no moral turpitude in this. And during the time that Holland was separated from the dominion of Spain, was war declared in consequence of any nation trading with Holland? The case was so different, he recollected that Holland declared, that she would seize all vessels going to Spain, though that had heretofore been considered as the mother country. This was reversing the case.

With respect to the three points stated generally by the Secretary of State, they are not said to go to the point for which the gentleman from Virginia has taken them. With regard to the *douceur* of £50,000, Mr. P. would say, that if we believe this attempt to have been made to extort this sum of money from our Envoys, for corrupt purposes, (and notwithstanding all that has been said on the subject, he did believe that X and Y were the agents of the French Government in that transaction, and which has, indeed, been acknowledged by Y, Mr. Bellamy, of Hamburg, who declares he has never written or said any thing to our Envoys, but by the direction of the

Secretary of Foreign Affairs,) no reliance ought to be placed upon any of their declarations; for after such an act, it may be supposed they will say one thing at one time and another at another; and no reliance could be had upon any thing which comes from so corrupt a source.

Mr. P. said he would not trouble the committee longer, except in one point, and that was as to the consequences which might flow from a declaration of independence on the part of St. Domingo. He should endeavor to answer the gentleman from Pennsylvania as to the consequences which it might produce to the Southern States. It was a subject to which he had paid all the attention in his power. He did, on all questions, endeavor as much as possible to divest himself of any thing like party spirit; but in this case, where he had himself so much at stake, in which his native country and every thing dear to him was concerned, his sincerity could not be doubted. Mr. P. did not himself believe that this bill would have the least tendency to procure the independence of St. Domingo; but as some gentlemen think it is probable that this may be the result, and as no one could say with certainty what the effect of any measure would be, he had considered the subject, and was clearly of opinion, that should the independence of that island take place, the event would be more advantageous to the Southern States, than if it remained under the dominion of France, considering the disposition which France has evinced towards us, (and of which he saw no prospects of a change,) and the present conduct of the inhabitants of St. Domingo. Nothing which we can do, said Mr. P., can bring back the internal state of that island to the state it was formerly in. Considering the inhabitants, then, in the light of freemen, whether will it be better for us, in the Southern States, to have to deal with them, as such, or under the direction of the French Government, unreasonable and arbitrary as we have found it? He had no hesitation in saying, that, it would be more for the safety of the Southern States, to have that island independent, than under the Government of France, either in time of peace or war. If our dispute with France should not be accommodated, and they keep possession of St. Domingo, they could invade this country only from that quarter. There is there a large body of troops, and their unofficial agents told our Envoys, that in case we did not submit to their conditions, we might expect an attack from that quarter. It would certainly lessen the danger from that island, were it to be separated from France; but remaining in the hands of France, and supported by the powerful navy of France, notwithstanding all the vigor we have shown on the ocean, we might be very much annoyed from thence.

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If these people in St. Domingo find that we withhold from them supplies which are necessary for their subsistence, said Mr. P., though they are friendly disposed towards us, they will look elsewhere for support; they must either turn their attention to cultivating their land, look to Great Britain, or become freebooters. Which situation is it most for the interest of the United States that they should be in? Surely the peaceful cultivation of the ground; and to induce them to take this course, it will be our interest to supply them with what they have occasion for, lest they should get the habit of freebooters, and make our commerce the object of their plunder. He hoped, therefore, the motion for striking out would not prevail.

Mr. MACON had no doubt the gentleman from South Carolina had paid particular attention to this subject. It was to be expected that every gentleman from the Southern States would pay attention to it. In one respect, he was precisely in the same situation with the gentleman from South Carolina. He lived in a country that would be affected by any event, such as had been mentioned, and all his connections were there. It was the same with all other gentlemen from the Southern States. He differed in opinion, however, when the gentlemen said that we should have less to apprehend from St. Domingo, in case it should become independent, than whilst it remained a part of the French Republic. He believed the state of society to be such in that country, as not to admit of self-government. In case they separate from France, he should apprehend that the consequence will be, that instead of being ruled by one of the European powers, they would become the tools of them all, in turn, and we should probably have the same game played off upon us from thence, that we have heretofore had played upon us by means of the Indians.

Mr. M. said, that although the part of the bill moved to be stricken out, does not go directly to say that it has reference to St. Domingo, it is a little extraordinary that no other case will fit it. There could be no doubt, if the island became independent, we should have a right to trade to it; but he believed it would puzzle gentlemen to find an instance of a Legislature passing a law in order to fit a case which might happen. As he thought it improper, he hoped it would be stricken out.

Mr. GOODRICH said this amendment went to change the principle of the bill. The bill goes upon the idea that when any island in the West Indies shall cease to make depredations upon our commerce, our trade shall be opened with them, without regarding by what authority or force the change was effected. The matter is not placed upon the ground of any treaty whatever; for, said Mr. G., we can neither increase nor diminish the power of the PRESIDENT in this respect. A great deal of mist has been thrown on this subject. The effect of this amendment will be, that the person restraining from depredations upon our commerce must act under the authority of the French Republic; on the contrary, the friends of this bill wish not to examine by what authority the thing is done, provided that it be done. We have a right to say that our vessels shall go to any port we please; but, according to the doctrine of the amendment supposing the island of St. Domingo was conquered, we could not send our commerce there, nor could we send it to a place in rebellion; so that our commerce was to be affected by every change of circumstances which might take place. He hoped the committee would recognize no principle which shall say we have not a right to send our commerce wherever we please, whether the places to which our vessels go are in war, peace, or rebellion.

Mr. GALLATIN was astonished to hear the gentleman from Connecticut say that this is merely a



commercial question. Let us, said he, examine the effect of this amendment. We are told that the provisions of this bill do not extend to any colony which may be conquered; for instance, to St. Martin's, St. Lucia, or any other colonies which have been conquered. Let us see, then, how it will apply if this amendment is rejected, and whether the question is commercial or political. Let us inquire, said he, what is the case provided for, if the amendment is rejected, and which is unprovided for if it is adopted, and it will then appear what ground is covered by the opposers of this amendment. If rejected, it will result, that all persons who may claim or exercise any command in any island, &c., although they have not that command under the Government of France, and who shall refrain from privateering, shall be entitled to a free trade with this country. The only case is a case of insurrection and rebellion. Suppose, said Mr. G., I should agree with the gentleman from Connecticut, that if once a rebellion takes place, or any colony shall declare itself independent, (but, by the by, the doctrine is not countenanced by the law of nations,) that we may trade there as we please. Does it result that we have a right to pass a law beforehand to contemplate such an event? If we do, it will be speaking publicly, thus: "If any persons shall, in any island, port, or place, belonging to the French Republic, raise an insurrection, and declare themselves independent, and shall be found to refrain from committing depredations upon our commerce, we will open a free trade with them." And yet the gentleman from Connecticut calls this a mere commercial question.

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The committee have been told of a number of cases which he had been astonished to hear—cases which happened in our war. Gentlemen who have mentioned these have not attended to any of the facts of the war. Mr. G. referred to the case of the treaty made in Holland, which has already been explained in a former debate. Mr. G. said, gentlemen might put what construction they pleased upon this section; but certainly publicly to tell the French colonies that if they will rebel against their Government, and restrain from depredating upon us, we will treat with them, is to invite them to do it. A declaration of war has always been the consequence of such a conduct in other countries; and he supposed gentlemen are not ready for a declaration of war, though they tell us there is no change in our affairs for the better; that negotiation is at an end; that no idea can be entertained of the sincerity of any professions of the French; and not being ready to bring in a declaration of war, they are not surely ready to make it, or provoke it; and if not, why assume a principle that may have this effect? He hoped the amendment would be agreed to.

The committee now rose, and had leave to sit again.

## **THURSDAY, January 24.**

### ***Death of Mr. Tazewell.***

A message was received from the Senate, informing the House that HENRY TAZEWELL, Esq., one of their body, died this morning, and that they had directed orders to be taken respecting his funeral.

Afterwards, on motion of Mr. DENT, the House came to the following resolution:

*Resolved*, That this House will attend the funeral of HENRY TAZEWELL, Esq., late a member of the Senate of the United States, on to-morrow, at half past four o'clock.<sup>[42]</sup>

### ***Intercourse with France.***

The House again resolved itself into a Committee of the Whole, on the bill further to suspend the commercial intercourse between the United States and France, and the dependencies thereof, and for other purposes.

Mr. SPAIGHT'S amendment being under consideration,

Mr. HARTLEY said the general policy of this bill had been considered at the last session; and he had no doubt, that when any parts of the French dominions cease to depredate upon our commerce, we might, with propriety, open our intercourse with them. If, for instance, the Isle of France had fitted out privateers, and depredated upon our commerce, and chose to forbear to do so in future, and leave our passage to the Indian seas clear, it would be a good reason for opening our commerce with that place. The case of St. Domingo is still stronger, and has, as has been shown, the power of doing as much mischief, should we refuse to furnish them with the necessary supplies. If they call in their privateers, therefore, it would certainly be right to open our intercourse with that valuable island, especially since they appear to be abandoned by France, who has withdrawn all her troops from the island.

After some other observations, Mr. H. concluded with hoping the amendment would not be agreed to, as it would only tend to embarrass the bill, by making it necessary to ascertain the legality of the governing authority of the places with which we might open our intercourse.

Mr. BRACE was opposed to this amendment, as it came round to the same point with that which the gentleman from Pennsylvania had proposed. It struck him that, in the course of the debate, gentlemen have forgot the ground on which we stand. Our treaties with the French Government have been declared void, on account of the conduct of that Government. We have proceeded further, and suspended all commercial intercourse with France and her dependencies. It would be well to consider what kind of connection now exists between the United States and France, and whether a measure of the kind proposed can injure our present prospect of peace. By the arguments of some gentlemen it would seem that we are under some obligation or contract to

that Government; whereas, we ought to consider ourselves, with respect to it, in no other light than we consider ourselves with respect to the governments of the world with which we have no connection. We have, therefore, no object to pursue, but what, in a dignified national view, it is our duty and our interest to pursue.

This separation having been effected by the wrong acts of the French Government, she can have no claim upon us; we have taken our stand upon such ground as can always be justified, whenever a spirit of justice shall return. There is no man, said Mr. B., in the House, who does not wish for peace, whenever it can be obtained on a solid foundation. But it was well observed yesterday by his colleague, (Mr. GOODRICH,) that this question is wholly a commercial one. This declaration gave offence to the gentleman from Pennsylvania. He was surprised that any one could suppose this to be the case. Mr. B. said he was equally surprised at the arguments of that gentleman. What connection had we with the French Government? or what connection had we with, any other, besides commercial? He had heard much clamor out of doors about other connections—about treaties offensive and defensive. He hoped no such connexion ever would exist between this country and any nation whatever.

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Mr. SPAIGHT said, he wished to have given the reasons which induced him to make this amendment yesterday, but a motion being made for the committee to rise, prevented him. Having been a member of the committee who formed this bill, and having given his consent to it, he trusted it would not be believed that he brought forward this motion to defeat the bill; his object was to make it more palatable to many gentlemen, who, if an amendment something like the present was not adopted, would vote against the bill. The gentlemen from Massachusetts and Connecticut have said, that if this amendment is adopted, it will destroy some of the most important principles of the bill. He believed they had mistaken the effect of the amendment. They state that it will be necessary for the PRESIDENT to inquire whether the commander of any island with which he was about to open our intercourse, had his authority from the French Government? On the contrary, it appeared to Mr. S. that, so long as the citizens of any island acknowledged France as the mother country, whatever authority may exist there, the place must be under the Government of France. If an open rebellion took place, it would alter the case entirely. And if conquered by any of the belligerent powers, it would not then come under the bill; so that, in either case, the amendment could have no bad effect. The principal motive with him for moving the amendment was, in order to take away the objection made to it by many gentlemen, that the bill is calculated to produce the independence of St. Domingo; for he himself had no such view, nor did he think any other member of the committee, who reported the bill, had. He believed, if the wants of these people are supplied from this country, it will be better that they should remain under the Government of France; but, if we refuse to supply them with provisions, they may act as freebooters, or do still worse—throw themselves into the hands of Great Britain, in order to procure supplies. These reasons had induced him to make the amendment, and he should be glad to see it adopted.

Mr. CHAMPLIN could see no difference between this and the former amendment, which had been negatived. The design of this section is, to authorize the PRESIDENT to open the intercourse with any of the islands and the United States, whenever he shall deem it consistent with the honor and dignity of this country, without inquiring whether such place is under the French Government. Frequent decrees are passed in France, said Mr. C., for revoking the commissions of these officers, which are not enforced; and yet, if this amendment is passed, such a person could not be treated with, and it would always be difficult to ascertain whether an officer acted under the French Government or not. If the islands choose to cease from their depredations, he would openly trade with them; for the intercourse was originally suspended, not with a view of starving the islands, but to prevent depredations being committed upon our commerce. He was astonished to find that nothing could come before this House, but gentlemen are ready to object to it on account of the effect it may have on France. For his part, if the measure be beneficial to this country, he cared not what effect it might have upon France. It was said this provision would have a tendency to provoke insurrection, or the independence of the island; on the contrary, he believed, if this law does not pass, they will throw themselves into the hands of Great Britain, or become plunderers of our property. He hoped to see the intercourse opened, not only with St. Domingo, but with the Isle of France.

Mr. HARPER said, when this amendment was first made, he considered it as making no considerable change in the section, and was, therefore, inclined to vote for it; but the gentleman from Massachusetts, (Mr. VARNUM,) of whose discernment he had a very high opinion, having said that he considered it as making a very considerable change in the section, and declaring that he would, on that account, vote for it, he was induced to take a further view of it, and he found, upon reconsideration, that it would, indeed, make a very material change in the section, and because he found this would be the case, he must vote against it.

Mr. GALLATIN said, it appeared to him that this amendment goes no further than to prevent any stipulations with persons who have usurped the power of a country. It was yesterday stated by the gentleman from Massachusetts, and repeated to-day by the gentleman from North Carolina, that it did not extend to cases where men's commissions are doubtful. If a man has once held a commission as an agent in any French colony, he may be recognized as their agent, so long as he has not been publicly declared to be otherwise. His exercising the power will be sufficient proof that he has it; and, unless this principle is admitted, it must be evident that the bill is intended to operate in favor of revoltors.

There is a great difference, said Mr. G., between this amendment and the one which had been moved by the gentleman from Virginia, the gentleman from New York, or that which he had

himself moved. It was the opinion of the gentleman from Virginia, and it was his also, that the PRESIDENT ought not to be authorized to open a trade with St. Domingo, unless the constituted authorities of France had disavowed their former aggressions, and refrained from them; they did not think it right to permit a trade with particular parts of the possessions of France, considering that the measure was originally taken to distress the French Government, and bring it to terms; but this section gives the power of opening a partial intercourse with St. Domingo, though the Government of France should not disavow any of her former illegal acts; and the present amendment only proposes to except cases of insurgency. Nor could he see what possible objection can be made to it, except that it will prevent a lure from being held out to promote the independence of St. Domingo; for in nothing else does the amendment differ from the bill as it now stands.

If we are to hold out this lure, said Mr. G., it must be because we have the right, and it is our interest to do it. When he asserted we have not the right to do it, he would remark upon the word "right." Gentlemen say we have a right to do this, because we are an independent nation. No doubt. But when he said we have not a right to do it, he meant that we could not do it without infracting the law of nations, or those rules which we have declared ought to govern every nation. And though the gentleman from Connecticut has said that there is no connection of a political nature between us and France, and therefore considers this as merely a commercial regulation, Mr. G. said, he has mistaken his meaning, by making use of the word "connection" instead of *relation*. We have no connection, either commercial or political, with France; but we stand, as a nation, in a political and commercial relation with France and other nations. There is no connection between us, but there is the same relation, both political and commercial, that there is between all other nations. And, said Mr. G., it is, doubtless, an infraction on the law of nations to offer any lure, or promote the independence of a colony. We certainly have a right to give assistance, in case of a rebellion, by running the risk of becoming a party in the war, but not without infracting the law of nations; still less could we do it without breaking that morality in politics, the breach of which we have so often complained of. We may suppose the Government of France radically wrong, and the people exercising it corrupt, but neither would justify the overturning, or holding out any encouragement to others to overturn, the Government of any part of her dependencies. A conduct of this kind could only be justified in time of war.

In this country, in our speeches, at least, we have gone further, and said that, even in case of war, it would not be right to sow the seeds of insurrection; for, on what other grounds could we account for the philippics which have been pronounced on this floor against France, for her conduct not only against countries with whom she was at peace, but also against those with whom she was at war. This was the case with respect to all the charges made against France with respect to Holland, or the Milanese (now Cisalpine Republic) with whom she was at war when the attempts condemned were made. But we have said, war is at best an unfortunate state, and it is not right to heighten its evils by exciting insurrections and commotions. If this principle is right, and Mr. G. believed it correct in most cases, it is clear that we shall not be justified in promoting insurrections, even in war, much less in this state which is a state of hostility, but not of war.

Notwithstanding the respect which he paid to the opinion of the gentleman from South Carolina (Mr. PINCKNEY) he could not be persuaded that the independence of St. Domingo could be a desirable object. To-day, it had been avowed, in what fell from his colleague, (Mr. HARTLEY,) that this was the ground upon which the clause was founded, all the French force being withdrawn. He gave credit to the candor of his colleague for the declaration, and it was in this point of view which he had always considered it, because he had stated that, no doubt, an agent from that quarter had come with propositions to our government.

Mr. G. repeated some of his former reasons against the policy of promoting the independence of St. Domingo. He heard the gentleman from Rhode Island, with regret, repeat one of those illiberal ideas that had been so frequently introduced here, by saying that gentlemen seemed opposed to this measure, because it would be injurious to France.

Mr. PINCKNEY wished to make a single observation upon what fell from the gentleman from Pennsylvania. In order to defeat all that has been said about this section holding out a lure for the establishment of the independence of St. Domingo, it need only be said, that it is confined to the colonies which are under the jurisdiction of France. The language of this clause is, "so long as you continue dependent, we will treat with you."

Mr. NICHOLAS explained.

Mr. SPRAGUE observed that the gentleman from Pennsylvania insisted upon it, that, without this amendment, this bill would hold out a lure to insurrections in St. Domingo, and that if gentlemen did not wish to encourage these, they must agree to the amendment. What is this encouragement? It is, "if you will forbear committing depredations, which we have heretofore experienced from you, we will open our trade with you." Then, according to the gentleman's reasoning, acts of hostility against the commerce of this country, are favorable to France; or rather, ceasing to commit them is an act of rebellion against the mother country; and, to hold out a lure on our part, to stop these depredations, is so contrary to the views of France, as to give a high offence to that country.

Mr. McDOWELL remarked, that gentlemen opposed to this amendment, all agree that the section, as it stands, holds out no lure to insurrection in the French West India islands; if not, why should they object to this amendment, which is only calculated to make certain what is at present doubtful to some members. He wished gentlemen to consider what might be the consequence of

authorizing the PRESIDENT to treat with unauthorized persons. Gentlemen have stated, and he supposed truly, that the trade of this island of St. Domingo is a gold mine to the merchants of this country; and he was afraid that the richness of this trade had too much attraction to be resisted by those concerned in it, though it might be dearly purchased by the nation at large. He differed widely in opinion from the gentleman from South Carolina, with respect to the effect which the independence of that island would have upon this country; he believed it was by no means a desirable event to this country.

Mr. J. WILLIAMS did not intend to have said any thing on this subject, as it is principally a commercial concern, of which he knew but little; but he also conceived that the agricultural interest is connected with it. Gentlemen are afraid more is meant by this bill than meets the eye; they are afraid to take a worm or a fly, lest a hook should be concealed in them. Instead of war, he thought this bill calculated to promote peace. It is admitted, on all hands, said Mr. W., that Hispaniola cannot support itself. How must they, then, get support? Either we must supply them, or they must depend upon neutral islands, or the people must bend their whole force upon our commerce. What, said he, is most prudent to do? He thought the regulation proposed by this bill the best that could be hit upon. But the gentleman from Virginia said we are obliged to send our tobacco through Spain to France; is this, said he, an advantage to the people of this country? It may be presumed, Mr. W. said, that the President will go no further in this business than the interest of the country requires. This jealousy of the PRESIDENT has a bad effect; because from a want of confidence in this officer, he will be unable to do any thing for us. He hoped the amendment would not be agreed to.

It was negatived—49 to 41.

## MONDAY, January 28.

### *Intercourse with France.*

The bill further suspending our commercial intercourse with France and her dependencies, and for other purposes, having been read the third time,

Mr. ALLEN moved for a recommitment of the bill in order to have expunged a proviso introduced by the member from Tennessee, excluding the port of New Orleans from its operation. He stated his reason to be, that he did not believe that was likely to be a rendezvous for French privateers; but that, if it should be, it ought to be liable to the same restrictions with other ports; and, if it was not likely to become a harbor of privateers, to insert a proviso of this kind, was to show a distrust that the PRESIDENT would not exercise the power given to him for the interest of the United States.

This motion was seconded by Mr. OTIS, and opposed by MESSRS. VENABLE, NICHOLAS, S. SMITH, W. CLAIBORNE, and HARPER. It was negatived, the yeas and nays being taken—74 to 18.

The question on the passing of the bill was then taken, and stood, yeas 55, nays 37, as follows:

YEAS.—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Nathaniel Freeman, jun., Henry Glenn, Chauncey Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Reed, John Rutledge, jun., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, Robert Waln, John Williams, and Robert Williams.

NAYS.—Abraham Baldwin, David Bard, Thos. Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William C. C. Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorph, William Findlay, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Anthony New, John Nicholas, Thompson J. Skinner, William Smith, Richard Sprigg, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

### *French Affairs.*

The following Message was received from the PRESIDENT OF THE UNITED STATES.

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

An edict of the Executive Directory of the French Republic of the twenty-ninth of October, 1798, inclosed in a letter from our Minister Plenipotentiary in London, of the sixteenth of November, is of so much importance that it cannot be too soon communicated to you and to the public.

January 28, 1799.

***Extract of a letter from Rufus King, Esq., Minister Plenipotentiary of the United States at London, to the Secretary of State, dated November 16, 1798.***

"The annexed arrêt would appear extravagant and incredible, if it proceeded from any other authority; but mankind is so accustomed to the violence and injustice of France, that we almost cease to express our surprise and indignation at the new instances that she continues to display."

[TRANSLATION.]

***Decree of the Executive Directory, of October 29, 1798.***

The Executive Directory, upon the report of the Minister of Foreign Relations, considering that the fleets, privateers, and ships, of England and Russia, are in part equipped by foreigners.

Considering that this violation is a manifest abuse of the rights of nations, and that the powers of Europe have not taken any measures to prohibit it. Decrees:

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1st. Every individual, native (*ou originaire*) of friendly countries, allied to the French Republic, or neutral, bearing a commission, granted by the enemies of France, or making part of the crews of ships of war, and others, enemies, shall be by this single fact declared a pirate, and treated as such, without being permitted in any case to allege that he had been forced into such service by violence, threats, or otherwise.

2d. The Executive Directories of the Batavian, Lagurian, Cisalpine, and Roman Republics, shall be instructed to this effect.

3d. The provisions contained in the first article shall be notified to those powers which are neutral or allied to the French Republic.

4th. The Ministers of Exterior Relations is charged with the execution of the present arrêt which shall be printed in the Bulletin of the Laws.

(Signed)  
TERILHARD, *President*.

The message and documents were read, and ordered to lie on the table.

**TUESDAY, January 29.**

THOMAS SUMTER, from South Carolina, appeared and took his seat in the House.

**FRIDAY, February 1.**

JOHN FOWLER, from Kentucky, appeared and took his seat in the House.

***Remonstrance of Georgia.***

On motion of Mr. BALDWIN, the House resolved itself into a Committee of the Whole on the report of a select committee on the petition and remonstrance of the Legislature of Georgia; and the resolution reported by that committee being under consideration, its adoption was opposed principally by Mr. ALLEN.

Mr. NICHOLAS thought the following resolution would be less exceptionable than the one reported, and it was agreed to—55 votes being in its favor.

"*Resolved*, That provision ought to be made by law for complying with such treaty as the PRESIDENT OF THE UNITED STATES may think proper to make with the Creek Indians, and for obtaining possession, in behalf of the State of Georgia, of the lands lying within the country of Tallassee, or other lands on the frontier of the said State, which may be deemed equivalent thereto, and that — dollars be appropriated therefor."

The committee rose, and after some further remarks from Mr. ALLEN, the resolution was concurred in—59 votes being in its favor. It was then referred to the select committee to report a bill.

The House adjourned to Monday.

**THURSDAY, February 7.**

***Augmentation of the Navy.***

On motion of Mr. JOSIAH PARKER, the House resolved itself into a Committee of the Whole on the bill for the augmentation of the Navy, and fixing the pay of the captains of ships or vessels of war; when the first section being under consideration—

Mr. GALLATIN moved to strike out the words "six ships of war, of a size to carry, and which shall be armed with not less than seventy-four guns each; and these shall be built or purchased within the United States;" in order to take the sense of the committee on the propriety of building, at present, ships-of-the-line. When this subject was last year before the House, the general opinion was, that during the present war, considering the crippled state of the French navy, frigates and vessels of a smaller size, were sufficient to protect our vessels on our own coast, and in the West India seas; nor did that opinion seem to have undergone any material alteration; for, although the Secretary of the Navy, and the select committee, had reported that the expense of building the six seventy-four gun ships now proposed, would amount to \$2,400,000, yet the appropriation asked for the present year was only one million of dollars. It was not expected that much more than one-third of the work necessary to send those ships to sea, could be executed during the present year. It was not expected that they could be finished in less than two or three years. They were not wanted for any immediate purpose. The proposed measure was not therefore a measure of defence. It was a project of a general nature. The question is, whether it be proper, at the present time, to lay the foundation of a navy, of a fleet, that might be able, hereafter, to give us a certain weight in relation to European nations; which might be able to cope with the fleets of those nations: and it was in order to bring that question fairly before the Committee of the Whole that he had made his motion. Should that motion prevail, it would not affect the building of the six sloops of war which were said to be immediately wanted, in addition to our present naval force, for the purpose of protecting our commerce. It would merely prevent the building, at present, of a fleet which was supposed, by the friends of the bill, to be wanted only for future purposes.

This led him naturally to consider the expense of that navy. It is stated by the Secretary of the Navy, that the annual expense of a 74-gun ship will exceed 216,000 dollars, and that therefore the annual expense of six of these ships will be about 1,300,000 dollars. That the building and equipping a 74-gun ship, exclusive of military stores, will be 342,700 dollars; and that the military stores will cost 48,000 dollars; so that the first building and equipping six of these vessels will cost about 2,400,000 dollars. This is the first expense, but nothing is said of the yearly repairing and building which will be necessary to keep up a fleet of this kind. It is estimated, in the navies of Europe, that a ship-of-the-line will last from 12 to 15 years; so that, besides ordinary repairs, the whole expense of building would have to be renewed every 12 or 15 years.<sup>[43]</sup> It would have been desirable, and it might have been expected, that the select committee should have laid before the House an estimate of the peace establishment of a navy to the extent proposed, in order to have enabled the House to have formed a just opinion on the main question. This they have not done; but supposing the other estimates to be perfectly correct; supposing that the expense would not overrun the calculations laid before the House, and, if so, it would be the first time it had not done it; supposing, according to those calculations, that a 74-gun ship will hereafter cost us less than two-thirds of what 44-gun frigates have heretofore cost us; it results, that the first necessary expense (including \$150,000 for docks and timber) will exceed, for six ships only, two millions and a half of dollars; and that the annual expense of supporting them, when in commission, exclusively of annual repairs, and of building new ships, necessary to supply those that from time to time will become unfit for service, will amount to 1,300,000 dollars.

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If these premises are true, and he knew they could not be contradicted, the conclusion must be most forcible that it is improper at present to build a navy, especially since there is no immediate demand for it. But if once the foundation of a large navy is laid, no one can say where it will stop. The Secretary of the Navy does not suppose that six 74-gun ships will be sufficient. He supposes twelve necessary; six are now proposed merely as an entering wedge. And when once twelve ships-of-the-line are obtained, if our commerce and coast, extensive as they are, must be effectually protected, these will not be deemed sufficient. He drew this conclusion from the naval force of European nations. Our tonnage exceeds that of any European nation, except Great Britain and Holland; and if we must have a navy to protect our commerce, it must bear some proportion to the extent of our coast, to the amount of our tonnage, and to the navies of the European nations. And upon what terms are we to cope with the powers of Europe with respect to any navy? It would be recollected that when last year there was a mutiny on board the British fleet, in order to put an end to it, the sailors' wages were advanced to one shilling sterling per day, equal to thirty shillings sterling, or six dollars and two-thirds per month, whilst we give our seamen seventeen dollars a month, so that we pay nearly three times as much for men to supply our navy, as England does.

Mr. G said, he would not detain the committee longer at present, though he meant to have made some observations with respect to the expense of navies to those nations who support them in order to show that the expense of them far exceeds the benefits derived from them. If reference were had to European nations, it would be found, Mr. G. said, that navies were used more as engines of power, than as a protection to commerce. Even with respect to Great Britain, which is the only nation which has succeeded in effecting any material object by a navy, though she has obtained a preponderancy at sea, and has been mistress of it for the last hundred years, yet it has been the means of involving her in almost continual war, and the support of it has always been attended with enormous expense. He believed he was correct, when he stated that from 1776 to 1789, the average expense of the navy of Great Britain (including a period of seven years of war and six of peace) was six millions of pounds sterling a year. Now, said Mr. G., if we calculate the

rate at which we shall be obliged to pay for every thing appertaining to a navy, what will be the sum necessary to support a navy of any extent here? Suppose a navy should only be one-tenth part of the British, and instead of 120 ships-of-the-line, we should be content with twelve. The expense, according to the British rate of expenditure, would be £600,000 sterling, nearly three millions of dollars a year; but when we know that we pay three times as much for our seamen as they do, it is impossible precisely to calculate what the expense would be.

In relation to European nations, it would be found, that none had ever derived any advantage from a navy, except Great Britain. It has been said (and by high authority) that an extensive commerce cannot be maintained without a navy. In answer to this it may be said, that Spain has always had a considerable navy, but very little commerce; their tonnage compared with ours was insignificant, yet theirs is the third navy in Europe. Holland, for a time, had a powerful navy; but they gave it up, as more expensive than beneficial, since the wars of Queen Anne. Yet their commerce, on this account, never diminished in any considerable degree. They are the second commercial nation in Europe; and they never suffer for want of a navy, except when they become a party in war; he conceived, therefore, that a navy is not necessary to protect commerce. At this time, Mr. G. knew that the commerce of Holland was in a great degree annihilated; but so was that of France and Spain, notwithstanding their powerful navies. Holland being at the door of Great Britain, may, in time of war, be altogether blocked up by the fleets of that nation. Fortunately that was not our situation.

Mr. G. concluded by saying, that as he believed commerce might exist independently of a navy; that a navy would cost far more than it would ever benefit the country; and knowing our finances were not such as to admit of the expense, he must hope his motion would prevail.

## **FRIDAY, February 8.**

### ***Augmentation of the Navy.***

The House then went into Committee of the Whole on the bill for augmenting the Navy, Mr. GALLATIN'S motion for striking out what relates to 74-gun ships being under consideration. [Pg 350]

Mr. JOSIAH PARKER hoped this amendment would not be agreed to. He was happy to find, however, that the gentleman from Pennsylvania did not go farther, and oppose the whole force, as he had heretofore always opposed every thing like a navy. Indeed, he has acknowledged that our infant navy has done some service, though he does not give to it all the credit which the committee who reported this bill thinks it deserves. He attributes the fall in insurance to other objects than the navy, because he says it has fallen more on vessels to Europe, where our navy could have had no effect, than to the West Indies, where that effect was more likely to be produced. But the gentleman should have recollected that the fall to Europe may have been occasioned by the vigilance of the British navy; but in the West Indies, the British, or at least the officers of the British men of war, seemed rather to countenance, than prevent, the depredations of the French; as, in many instances, they have suffered captures to be made by the French, and immediately afterwards recaptured the vessels, and by that means obtained a salvage upon them. Nor did he suppose the British Government would regret these depredations, since they knew such treatment would serve to rouse the resentment of this country against her enemy. Mr. P. supposed that the saving produced by our navy had even been greater than the committee had supposed, as, by the report made yesterday on the subject of our exports, it appears they have been ten millions more than the committee calculated them at. He allowed that our navy had not been the sole cause of safety to our commerce; the British navy had also contributed greatly to it. But it would be recollected that when this navy was first fitted out, French privateers and picaroons were not only upon our coast, but in our very bays; and, but for these measures, there can be no doubt, but our shores would at this time have swarmed with French privateers, which the British would have suffered, in order to widen the breach between the two countries.

Mr. P. hoped when the quantity of shipping, and the number of seamen we employ, is considered—that these are the means of bringing us from foreign countries all that we desire to have from thence, and that they thereby fill our treasury with money—gentlemen will not hesitate to allow our commerce a competent protection. No nation, except Great Britain, exceeds this country in the number of vessels and men engaged in this service, yet no nation has done so little to protect them. He trusted we should be allowed to have a sufficient navy to protect our commerce and coast, and to cause us to be respected abroad.

The British Government, Mr. P. said, has 141 sail-of-the-line, (according to Steele's list, which he had lately seen,) and these, according to the opinion of the first statesman and politician that England ever possessed, Lord Chatham, require as many thousand seamen; not that each vessel requires 1000 men, but it is necessary to have this number in order to employ their frigates and sloops of war, not that the ships of the line require 1000 men; yet, though Britain has this immense navy, she has not double the number of merchant vessels and seamen which this country possesses. If, said Mr. P., these six 74-gun ships and six sloops are agreed to, we shall not want more than 12,000 seamen to man our navy. At present we have only 4,000; and the whole annual expense will be 4,230,149 dollars. Mr. P. believed, in order to give us efficient protection, we ought to have eleven sail-of-the-line; but as he considered six to be as many as our present finances will allow, he should be satisfied with that number.

The gentleman from Pennsylvania wished to be informed as to the expense of a peace establishment of our navy. A large navy in time of peace would be unnecessary; he should wish it,



however, to be kept on a respectable footing. Many of our ships, Mr. P. said, will last much longer than the gentleman from Pennsylvania had supposed; some of them, he doubted not, would last forty or fifty years. The British have ships which have been in service thirty years; when poorly built they may not last more than seven years. He had not made an estimate of what would be the expense of a peace establishment with respect to the navy; nor did he know what force the PRESIDENT OF THE UNITED STATES might think it necessary to maintain in time of peace, but he supposed it would be small, and a single officer and thirty men would be sufficient to take care of a ship where she is laid up in ordinary: that only a few of the best ships would be kept, and the others sold.

The gentleman from Pennsylvania had represented the expense of a navy in this country as being much greater than in England; but when he spoke of the pay of British sailors being only one shilling sterling a day, he was certainly mistaken. They have at least a guinea and an half a month, which is seven dollars; and ours average fourteen dollars, which is double to that of England. If the same means were taken here that are taken in England, of raising men by means of press-gangs (which, however, he rejoiced never could be suffered in this country,) they might, perhaps, be gotten on easier terms, as the Government might follow the example of Great Britain, by fixing the pay and pressing the men. He would much rather pay higher wages; especially when it is considered that a very small part of the money paid to seamen will ever go out of the country; they spend their money freely, and the United States will not, therefore, lose it.

And as to the number of men employed in the navy, if they were not thus employed in our own service, they would go abroad, since this is the employment they choose; indeed, if all our citizens were employed in cultivating the ground, our produce would be so great, and sell for so little, as to make it scarcely worth the trouble of raising. And if we do not provide for our own defence, we shall be at the mercy of every foreign power which chooses to insult or ill-treat us. The interests of commerce and agriculture must always go hand in hand; and farmers who now get so much better a price for their product than they heretofore got, ought to be the first in supporting a navy sufficient to protect our vessels in carrying that produce to foreign countries. When they see their interests more clearly, Mr. P. trusted they would, like the gentleman from Pennsylvania, be ready to allow that our navy is of service. It would be happy for us, and for the world, Mr. P. said, if there were no use for navies, and nations might be permitted to carry their productions wherever they pleased without annoyance; but, while nations continue to make war upon each other, we must expect to come in for our share of the evils of such a system, and it will be necessary to have some force not only to guard against injuries, but to keep foreign belligerent nations in check, lest we should throw our force into the scale against them. The French Directory, said Mr. P., have lately passed a decree, which ought to be considered as a declaration of war against the world, "that the citizens of neutral countries found on board of any of their ships shall be considered and punished as *pirates*!" Where is the man, exclaimed he, who will not defend his country and his fellow-citizens against such a decree?

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Mr. P. said he would take the liberty of quoting the authority, on the subject of a navy, of a gentleman who deservedly ranked high in public estimation, and whom he was proud to call his countryman. The authority he referred to was Mr. Jefferson's Notes on Virginia. He read the following extract.

"But the actual habits of our countrymen attach them to commerce. They will exercise it for themselves. Wars, then, must sometimes be our lot; and all the wise can do, will be to avoid that half of them which would be produced by our own follies, and our own acts of injustice; and to make for the other half the best preparations we can. Of what nature should these be? A land army would be useless for offence, and not the best nor safest instrument of defence. For either of these purposes, the sea is the field on which we should meet an European enemy. On that element it is necessary we should possess some power. To aim at such a navy as the greater nations of Europe possess, would be a foolish and wicked waste of the energies of our countrymen; it would be to pull on our own heads that load of military expense which makes the European laborer go supperless to bed, and moistens his bread with the sweat of his brow. It will be enough if we enable ourselves to prevent insults from those nations of Europe which are weak on the sea, because circumstances exist which render even the stronger ones weak as to us. Providence has placed their richest and most defenceless possessions at our door—has obliged their most precious commerce to pass, as it were, in review before us. To protect this, or to assail us, a small part only of their naval force will ever be risked across the Atlantic. The danger to which the elements expose them here are too well known, and the greater danger to which they would be exposed at home, were any general calamity to involve their whole fleet. They can attack us by detachment only; and it will suffice to make ourselves equal to what they may detach. Even a smaller force than what they may detach will be rendered equal or superior by the quickness with which any check may be repaired with us, while losses with them will be irreparable till too late. A small naval force, then, is sufficient for us, and a small one is necessary. What this should be, I will not undertake to say. I will only say, it should by no means be so great as we are able to make it."

Mr. P. perfectly concurred in this opinion. He had frequently expressed it. But the gentleman from Pennsylvania says we have no money, and therefore we ought neither to have a navy nor any thing else, to defend ourselves at home or at sea. He tells the House that our revenue will not



exceed ten millions, and that if we agree to have these ships built, we shall want twelve millions. Mr. P. trusted that if these two millions were wanted the ways and means will be found, rather than that we shall suffer our commerce to be destroyed, and lose all our credit as a nation abroad. Admitting, said Mr. P., that our debt is a hundred millions of dollars, it must be recollected that its increase has been owing to a number of causes which could not be avoided, amongst which was our war with the Indians, the Western insurrection, our treaty with Algiers, and the building of vessels for the protection of our commerce; but if our debt is fifteen millions more now than it was at the commencement of the present Government, our numbers have greatly increased since that time, so that he supposed, considering the number of individuals who have to bear it, it is not so heavy, in proportion to our population, as it was at that time. Having the ability, therefore, he trusted there would be found the will to provide a respectable naval force to protect us at home, our commerce abroad, and leave us in a situation to be more respected by foreign nations than we have heretofore been, and therefore hoped the present motion would be rejected.

Mr. HARPER.—Notwithstanding, Mr. Chairman, the subject now before the committee, the usefulness of a Naval Establishment for the United States, has been so frequently and so fully discussed on former occasions, I deem it important to enter once more into a particular consideration of it, less on account of the general reasons so often urged against the measure, than of those particular objections, founded on the supposed state of our pecuniary resources, whereby it has, at this time, been assailed.

The gentleman from Pennsylvania has proved, as he thinks, that no possible navy could be equal to the protection of our commerce, extended as it is. And how has he proved this? By the example of other nations—of Holland, Spain, and Great Britain. Spain, he says, has a very considerable navy, perhaps the third in Europe, and yet no commerce. Holland found herself unable to support her navy, and even while she supported it, was unable to protect her trade; and therefore she gave it up, and yet, after she had done so, continued to possess a very great commerce. Even Britain, according to him, mistress of the ocean as she has been for a century past, has not fully protected her trade by her marine; which, in the mean time, has cost her more than the whole sum which her trade has yielded—and, therefore, she would have been better without a navy. This, Mr. Chairman, is the calculation of a schoolboy, not of a statesman; of the counting-house, not of the cabinet; and if the judgment of the gentleman from Pennsylvania were not warped on this, as on so many other occasions, by his particular political system, he would be one of the last persons in the world to present the subject in a point of view so much beneath a mind of the least political discernment. The gentleman, in fact, forgets that Britain is indebted to her navy, not for her commerce only, but for her independence; not only for the dominion of the seas, but for her existence as a nation. Every man, who is in the smallest degree versed in history, knows that Great Britain, but for her navy, must long since have been a province of France. Had not Britain been mistress of the ocean, France would long since have been not only her mistress, but mistress of the rest of Europe. That great people, uniting within itself all the sources of military, pecuniary, and maritime strength, has never ceased to contend for universal empire, with immense means, vast genius, boundless ambition and unwearied perseverance, since the period when, two centuries ago, its provinces became united under one Government, and its immense resources, managed and called into activity by a minister whose mind was equal to his station, were directed to the increase of its power and extension of its limits. How has Britain been enabled to check this formidable career, to maintain her own power, and to arrive at her present high pitch of consequence in the scale of nations? Not by her population, which is little more than one-third of that possessed by France; nor by her insular situation, which heretofore could not protect her from invasion and conquest; nor by her military power, which, when compared with that of France, has never been considerable—but by her navy. It was that navy, and the wealth which commerce, protected by it, poured into her lap, that enabled her to support with glory so unequal a contest, to call to her aid the military force of Germany, and thus to establish a counterpoise to the power of France. But for this naval force, and the commerce which it protected and cherished—but for this union, cemented by the money, and aided by the maritime preponderance of England—France, combining, as she did, greater means of strength of every kind than any other nation, or even than all the nations of Europe united, except Germany and Great Britain, must long since have established her dominion over all. England must have fallen first, being unable, without the command of the sea, to save herself from invasion; and then the powers of the Continent, deprived of the pecuniary aid wherewith England was enabled by her commerce, under the protection of her navy, to supply and unite them, would have bent, one after another, beneath her formidable and continually augmenting strength. Even now this same navy enables England to ride secure amidst the most terrible storm wherewith the political world has ever been afflicted; to brave all the tremendous dangers by which she has been threatened; to baffle every attempt against her safety, or that of her remotest possessions; and amidst the dismay, the humiliation, or the total overthrow of so many powers, to triumph over her rival, whose strength, always formidable, is exercised, not more by her extension of territory and of influence, than by the consternation wherewith her successes have stricken other States, by the disunion and feebleness which has characterized their counsels, by the terrible weapon of internal commotion with which she threatens, or has actually assailed them, and by the unheard of despotism of her own Government, which enables it to employ, in a degree hitherto unexampled in the history of civilized men, the physical forces of the nation, in executing its plans of plunder and conquest. This same navy enables England not only to maintain thus gloriously a conflict so dreadful and so unequal, but to stand the barrier between independence and universal dominion, between liberty and the most degrading despotism, between civilization and the barbarism of the dark ages—to become the citadel of property, the storehouse and the

banker of the world, and to render all nations, with their own consent, tributary, by means of her commerce, to the support of her greatness.

What, then, Mr. Chairman, must we think of that political system which estimates the British navy by a calculation of the sums which it has cost to maintain it; forgetting that, without this navy, there would have been no wealth to supply these sums, and, perhaps, no nation to pay them; that without this navy, Great Britain, instead of holding her present exalted station among the powers of the earth, must long since have sunk into a secondary and unimportant State; and, probably, into the condition of a province of that very rival against whom she now so nobly and so gloriously contends! Is it too much to say of such a calculation, that it is a paltry calculation, unworthy of a statesman, and befitting only a schoolboy?

But even the navy of Great Britain, the gentleman from Pennsylvania has told us, formidable as it is, has not afforded complete protection to her commerce. How, then, he asks, can we expect to protect our commerce by a navy? If the gentleman means by "protection" the total prevention of captures at sea, it is certain that no nation ever did, or ever can protect its commerce, in that scale. But that is not the true idea of "protection," which means nothing more than such a degree of safety as may enable the merchants of a nation, taken as a body, to pursue their commercial enterprises without discouragement, or eventual loss. This is all the protection that is ever attempted, or that is necessary; and this, I contend, we have it in our power to give.

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Respecting the navy of Holland, the gentleman from Pennsylvania falls into a mistake equally remarkable. Holland, he tells us, has no navy, and yet maintains a very great commerce. Formerly she had a navy, but could not maintain it, and was forced to give it up. But where did that gentleman learn that Holland has no navy? Had she no navy in the American war, when with great gallantry, though with unequal success, she fought the English at sea? Had she no navy when she fitted out the formidable armament under De Winter, in October, 1797, which, after a dreadful conflict, was defeated rather by the superior address of the British Admiral, than the superior force or bravery of his fleet? Do we not know, that even now, after this fatal defeat, she possesses, in her different harbors, a much more numerous fleet than is proposed by the present bill for the United States? How then could the gentleman from Pennsylvania say that Holland has no navy? He ought to have known that until the marine of France and Spain were destroyed, in the present war, that of Holland was sufficient to turn the scale in their favor and against England; which gave her not only security for her commerce, but respectability and weight among the maritime powers of Europe.

As to the other assertion of the gentleman from Pennsylvania, that Holland a long time ago found her navy too burdensome for her resources, and therefore gave it up, it is equally erroneous. Holland, as we have seen, never gave up her navy, and even now, exhausted and ruined as she is by French fraternity and internal revolution, maintains a much greater one than is proposed for the United States. There is, indeed, a period in her history, the close of the last and the beginning of the present century, when she ceased to be ranked with the first maritime powers of Europe; but that happened, not through the want of means, but a mistake in policy. Before that period her system had been wholly maritime. All her resources were applied to her navy. A maritime armed neutrality was her great object, and she long preserved it with success. Her commerce, fostered by her marine, spread over every sea; and the Northern maritime States, guided to the same policy by her influence, acknowledged her as their umpire, their mediator, and their safeguard. The great powers courted her alliance and respected her rights. She interfered with weight in their disputes. Her village of the Hague became the centre of their most important negotiations. She disputed the empire of the seas with them singly; and, at one time, she held the united forces of France and England in check at sea, and finally compelled the French armies to retreat from her territory, which they had overrun and occupied. All this she effected by means of her navy, and of the resources which it had furnished to her by the protection of her commerce.

At this period she altered her system, and instead of cherishing her marine, and confining herself solely to the maintenance of her commerce, by an armed maritime neutrality at the head of the Northern Powers, she engaged in the land wars of the great military powers, and made exertions disproportionate to her strength, whereby her resources were exhausted. Into this fatal mistake she was drawn by the aspiring ambition, the popularity, and the heroism of one of her own citizens, stimulated and aided by the aggressions, the insults, and the alarming encroachments of the French Monarch, Louis XIV., at the zenith of his glory, evidently aspiring to universal dominion. William III., placed by his birth and personal merit at the head of the Dutch nation, saw those objects of French ambition, and roused his own country to resistance. Called, at length, to the Government of England, he communicated to that nation his own martial ardor. He finally succeeded in forming a confederacy to check the progress of France. Of this confederacy, Holland, his native country, was induced by his influence to become a principal member. At the head of it he struggled against the power of France, with unequal means, and sometimes with unprosperous fortune, but with a genius and perseverance not to be subdued, and a heroism rarely to be equalled. After his death, the impulse which his mind had given to his own and other countries continued to be felt, and the confederacy was renewed under his successor, on a different occasion, but with the same views. At length its object was altered. France was completely humbled and Europe secured against her enterprises, but the strength of Holland was undermined in the struggle. The vast armies which she had kept up had loaded her with debts. Her operations for so many years, by land, had drawn off her attention from her marine; and from that moment it declined, while that of England rose gradually on its ruins.

Hence, Mr. Chairman, the downfall of the maritime greatness of Holland. Her resources were not equal to the maintenance of fleets and armies, of both maritime and military strength. While she

was left to attend solely to her maritime concerns, she continued to be powerful, respected, and prosperous; but her situation on the Continent, in the neighborhood of a great and ambitious military power, drew her, perhaps unnecessarily, into land wars, to which her strength was unequal, and, of course, her naval power declined. But still she continued for a century to keep up a navy sufficient to form a considerable weight in the scale, and to secure attention to her rights as a nation; and under this security her commerce continued to flourish, in a greater or less degree, till a domestic revolution, aiding and aided by foreign oppression, dried up all its sources.

What, then, Mr. Chairman, is the instruction which we may draw from this example? A nation whose population never exceeded two millions and a half, and whose territory, compared with ours, is but a mere speck on the surface of the globe, a mere garden spot, was able to maintain a most formidable marine, while it attended to that object solely, to extend its commerce under the protection of this marine, and to maintain not only an equal, but a distinguished rank, among the great powers of Europe, by whose territories it was surrounded, and by whose formidable armies it was liable to be invaded. Even this nation, after a mistake in its policy, or the pressure of inevitable circumstances, it had been induced to divert its attention from its marine to land wars, to exhaust its resources, and burden itself with debts too great for its means, by these disproportionate efforts, still was able to preserve a navy sufficient to give respectability to its flag, and a degree of safety to its commerce. Even now, when its resources are dried up by anarchy, or diverted by foreign exaction into the coffers of another nation; when its territory is curtailed, and its population reduced to one million and a half; when it is compelled to maintain an army of 25,000 men for France, still it has a navy greater than we propose. Shall it, then, be said, that this country, with probably six millions of population, most rapidly increasing, with an extent of territory capable of containing fifty millions, with a commerce greater than that of Holland ever was, and with more tonnage and sailors than she ever possessed, is not able to support such a navy as she, even since the commencement of her downfall, has always supported, and still supports? Yes, it is said by the gentleman from Pennsylvania; but the good sense of this House and of this country will, I trust, correct his mistake, as it has so often done heretofore.

But if it were true, Mr. Chairman, that Holland had afforded no protection to her commerce by the navy which she has been able to keep up, does it follow that the same thing will happen to us? Will the same navy be more efficacious in our case, than in the case of Holland, or Spain, or Portugal? This must be taken for granted in order to give any solidity to the argument of the gentleman from Pennsylvania, and yet nothing can be more untrue. Those States are situated at the very door of the great maritime powers, and their dominions are also exposed to invasion by land. They must, therefore, either singly or by combinations with other powers, contend against the whole maritime force of those great States, and must maintain navies adequate to that purpose. But we are under no such necessity. Placed at a vast distance from those great powers, and in the neighborhood of those possessions which contribute most to the support of their commerce and their navies, we can attack them in a weak, and yet a vital part, with our whole force, while but a small part of their force can at any time be brought to act against us. It is with this part only that we shall have to contend, should they at any time drive us into a war. Let us take England as an instance. Her great and valuable possessions lie at our threshold. The uniform course of the trade-winds compels all her vast and rich commerce with those possessions, to pass almost in sight of our shores. The force which she can send to protect this commerce and annoy us, in case of a rupture, will not be her whole force, but that part of it only which she can spare from Europe, after securing her preponderance there. France, notwithstanding the prostrate condition of her navy at present, possesses maritime means which will speedily enable her to raise it up again, whenever those means come to be directed, as one day they must, by a Government of some understanding. This navy, and the maritime combinations which will be formed under its protection, England must watch and keep under. Her existence will depend upon it. She will, therefore, have but little force to spare which she can bring to act against us. A comparatively small maritime force, therefore, will compel her to respect us, and to avoid a quarrel with us by all just and reasonable means.

It follows that a moderate navy, a much smaller one than Holland, Spain, or even Portugal, have supported, would be sufficient for our protection, aided by the peculiar advantages of our situation. Those nations, inconsiderable as they are when compared to us in population, wealth, and extent of territory, have supported navies which, however unequal to that of England, have yet afforded some degree of protection to their trade, rendered their flags in some degree respectable, and given them a weight in the scale, a consequence among nations, which otherwise they could not have had. And shall not we, with our great and increasing resources, and the peculiar advantages of our situation, be able to effect still more?

Mr. NICHOLAS said this question was different from any former question, with respect to the Navy, which had been before the House. Whatever gentlemen may have heretofore said with respect to the advantages of a navy for the protection of our commerce, they must agree that the present question has a different aspect, as no man can say that seventy-four gun ships are calculated to resist the kind of force which has heretofore made attacks upon our commerce in the West Indies.

Mr. N. was far from believing that our armed vessels had produced the effect which the committee, who reported this bill, stated them to have done. He thought the gentleman from Pennsylvania had adduced many sufficient reasons for the fall which had taken place in the price of insurance, independent of our navy; and that, therefore, the committee were wholly mistaken

that the advantages already derived from our navy have exceeded the cost of it; and that, if it had been established several years ago, it would have proved a great saving to the United States.

Mr. N. confessed he had always been opposed to a naval force for the purpose of warring with European nations, and whether the force now proposed is considered as necessary for defence or offence, it must have that character. The propriety of a naval force for this purpose never appeared to him in a questionable point of view; he thought every consideration of policy and interest forbids it. We are well informed, said he, by the best historians, that the British navy has been the means of sinking that nation to its present state; for he could not admire, like the gentleman from South Carolina, the splendor and prosperity of a nation, which is brought into such a situation as to render it doubtful whether it can exist for a day, a month, or any other period. If the navy of Great Britain, then, commenced under different circumstances from those in which we are placed—which, according to the gentleman from South Carolina, was not only for the protection of her commerce, but as a defence against neighboring nations, and to guard against the worst revolutionary principles—has nearly ruined that country by the immense sums necessary for its support, shall we, who, according also to the confession of that gentleman, have nothing to fear from European nations—[Mr. HARPER interrupted Mr. N. to deny that he had said we had nothing to fear from Europe. He had said we had nothing to fear but from the sea.] Mr. N. said this was the way in which he understood the gentleman, and that no danger exists of any invasion by a land force. If this is the case, the use to which a navy can be put will only be to defend our commerce from cruisers, and passing fleets. We have not, therefore, half the inducements to the establishment of a navy which influence European nations, and many powerful reasons against such a force.

The European nations have, most of them, distant colonies, which they have to protect, and with which they have to keep up a constant communication across the ocean, which renders a navy in some degree necessary. But all the European nations commenced their navies under the delusion that a small force would only be necessary, and that one or two ships would give them an ascendancy over other nations. Can we expect this, said Mr. N.? No; we begin the business with fewer inducements than any other nation ever begun a navy, and without necessity; for it is acknowledged we have nothing now to apprehend from invasion, (and if we had, this force could not be provided in time,) we have no colonies to protect, and no intercourse which calls for a naval force.

We cannot, therefore, said Mr. N., embark in this business with the same motives which influenced all European nations in establishments of this kind. They built small navies because they would be equal to cope with the small navies of their neighbors; but we are about to begin the business with a navy staring us in the face, the most formidable that any man could suppose to exist. According to his colleague, the British have 140 sail-of-the-line; and yet our navy is undertaken with the avowed purpose of keeping her, as well as the other nations of Europe, in check. Mr. N. asked whether we could ever hope to succeed in a plan of this kind? We certainly could not, since Great Britain would always even in war have more than a sufficient force to meet all the ships which we can build. Besides, if our situation, as gentlemen say, will make a small force so operative in our hands in time of European wars, will not our possessing it be sufficient to produce war with Great Britain, when it is always a sufficient cause for war, in the opinion of Great Britain, for any other maritime power to put a few more ships in commission than their ordinary establishment? And, if Congress were to order the building of fifty ships, it would only increase the certainty of this effect. How is a naval force to guard us, which Great Britain can destroy, whenever she pleases, even in time of war? For she has frequently ships sufficient on our coast to destroy all the vessels which are contemplated to be built. In short, this navy will be the means of keeping this country in continual broils. On the first appearance of arming any additional vessels on the part of Great Britain, for whatever cause, we must set on foot a negotiation to combine the other powers of Europe in our favor; and this country will become the centre of intrigue and tricks for the agents of every country.

But the gentleman from South Carolina says, this is the cheapest mode of defence; but does the gentleman prove this? Can he prove that £10,000,000 sterling is only the third part of the expense of defence, as he says? Does he not recollect how much of the revenue of that country goes to pay the interest of their enormous debt, and, therefore, cannot be considered as a part of the expenditure for defence? The gentleman will find, on reflection, he is much mistaken in his calculation in this respect. The gentleman from South Carolina has been loud in his encomiums on the British navy, on account of its usefulness to the world; and he calls the calculation of the gentleman from Pennsylvania, relative to the expenses of a navy, a paltry, schoolboy calculation, because it has not taken into view this usefulness. That gentleman, said Mr. N., only referred to the British navy so far as it was useful in the way gentlemen say they expect ours to be advantageous. But from the contradictions which the gentleman from South Carolina seemed to run into on this subject, he did believe that he had not an eye to a navy, merely for the defence of our commerce; he appeared to wish that this country should take a stand like that of Great Britain, that the safety of the world may, at a future day, depend upon us, as it now does upon Great Britain. Mr. N. believed the ambition of this country, the pride of its Government, and naval commanders, will all operate this way; and we may, one day or other, if we proceed with this navy scheme, be as aspiring, as domineering, as any other nation in the world, and by this means be embroiled in continual war, and be saddled with a debt equal to that of Great Britain.

Mr. N. believed there existed no good reason for going into the establishment of a navy at all, because he believed it would never be really useful to this country; but if it should be otherwise determined by a majority of Congress, this, he thought, of all times the most improper to

commence the work.

Mr. J. WILLIAMS then moved to strike out what relates to 18-gun vessels, on the ground that the thirty-nine small vessels which we have are sufficient. The motion was negatived without a division.

Mr. J. PARKER proposed filling up the blanks in the section fixing the pay of captains in the Navy, with an advance from \$75 to \$100 per month to captains of 74's, and others in proportion; except the masters of vessels under 20 guns, which were proposed to be lowered.

Some objection, however, being made to this, and particularly to the mode of doing the business, this being the first time that the subject had been before the House, the section was moved to be struck out, and carried.

The committee then rose, and the House having concurred in the amendment reported,

Mr. NICHOLAS renewed the motion for striking out the 74-gun ships, and called the yeas and nays upon it. They were taken and stood, yeas 40, nays 54, as follows:

YEAS.—Abraham Baldwin, David Bard, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles, Cole Claiborne, John Clopton, John Dawson, Joseph Eggleston, Lucas Elmendorph, William Findlay, John Fowler, Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Thompson J. Skinner, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, George Baer, jun., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, William Craik, Samuel W. Dana, John Dennis, George Dent, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Read, John Rutledge, jun., James Schureman, Samuel Sewall, Thomas Sinnickson, Samuel Smith, Richard Dobbs Spaight, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Alen, Peleg Wadsworth, Robert Waln, and John Williams.

The bill was then ordered to be engrossed for a third reading [and passed by the same vote].<sup>[44]</sup>

## THURSDAY, February 14.

### *Relations with France.*

Mr. LIVINGSTON called up for consideration the resolution which he yesterday laid upon the table, calling upon the PRESIDENT for any information which he may possess touching the suspension of the French arrêt, declaring neutral citizens pirates when found on board the vessels of belligerent powers; which being read,

Mr. L. called the yeas and nays upon it. He said he understood that, since yesterday, a member of this House had applied at the office of the Secretary of State, and had been informed that some information had been received relative to this subject. Perhaps the gentleman would himself state to the House what he had learned from that office.

Mr. HARPER said, he had only to state, that he had made inquiry at the office of the Secretary of State, and had been informed that a letter had been received from our Minister in London, enclosing an extract from the *Redacteur* (supposed to be an official French paper) stating that the Executive Directory had suspended the edict in question. This extract, he understood, does not state the reason of this suspension; but our Minister writes it was owing to a threat of the British Government to retaliate upon French citizens within their power.

The yeas and nays were taken, and stood—52 to 38.

### *Naval Pay.*

On motion of Mr. JOSIAH PARKER, the House resolved itself into a Committee of the Whole, on the bill fixing the pay of captains of ships and vessels of the United States; and after some amendments, the bill was reported, and ordered to be engrossed for a third reading.

[This bill provides "that all vessels in the service of the United States, mounting 20 guns and upward, be commanded by captains; those not exceeding 18 guns (except galleys, which are to be commanded as heretofore provided by law,) by masters or lieutenants, according to the size of the vessel, to be regulated by the PRESIDENT OF THE UNITED STATES; that the pay of a captain, commanding ships of 32 guns and upward, be \$100 dollars per month, and eight rations per day; of captains, commanding ships of 20 and under 32 guns, \$75 a month, and six rations a day; of a master-commandant, \$60 per month, and five rations per day; and of lieutenants who may

command the smaller vessels, \$50 dollars per month, and four rations per day; that whenever any officer as aforesaid shall be employed in the command of a squadron, in separate service, the allowance of rations to such commanding officer shall be doubled during the continuance of such command, and no longer, except in case of a commanding officer of the Navy, whose allowance, while in service, shall always be at the rate of sixteen rations per day."]

**FRIDAY, February 8.**

***Relations with France.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the House of Representatives:*

In pursuance of the request, in your resolve of yesterday, I lay before you such information as I have received, touching a suspension of the arrêt of the French Republic, communicated to your House by my Message of the 28th of January last. But if the execution of that arrêt be suspended, or even if it were repealed, it should be remembered that the arrêt of the Executive Directory of the 2d of March, 1797, remains in force, the third article of which subjects explicitly and exclusively American seamen to be treated as pirates, if found on board ships of the enemies of France.

JOHN ADAMS.

UNITED STATES, *February 15, 1799.*

***Extract of a letter from Rufus King, Esq., Minister Plenipotentiary, &c.,  
London, to the Secretary of State, dated 28th November, 1798.***

"Annexed I send you a copy of a note from Lord Grenville, respecting the French arrêt transmitted to you with my No. 9. A late French paper contains a second arrêt which postpones the execution of the first."

***Lord Grenville to Mr. King.***

The undersigned, His Majesty's Secretary of State for Foreign Affairs, has the honor of communicating to Mr. King, Minister Plenipotentiary for the United States of America, for the information of his Government, that, by a decree, published officially at Paris, it appears to have been declared, in the name of the French Directory, that every person being a native of or originally belonging to neutral countries, or to such as are in amity and alliance with the French Republic, who shall bear any commission under His Majesty, or who shall form a part of the crews of any British ships of war, or other vessels, should, on the proof of that fact alone, be considered and treated as a pirate, and that it has been ordered that this resolution shall be notified to the neutral powers, and to those in alliance with France.

Even this decree, contrary as it is to the usages of every civilized nation, cannot excite any surprise, as proceeding from those in whose name it has been published. To the different powers who are thus insulted, and whose innocent subjects are exposed to the most cruel treatment on the part of a Government professing friendship or alliance with them, His Majesty must leave it to adopt such measures as they will, without doubt, judge necessary, in the case of an outrage hitherto unexampled in the history of the world.

The King, however, feels, that protection is also due from him to those who sail under his flag, either in His Majesty's ships of war, or in other British vessels; His Majesty has, therefore, not hesitated to direct it to be signified to the Commissioner for French prisoners in Great Britain, that the first instance of the execution of this decree shall be followed by the most rigorous retaliation against the French prisoners, whom the fortune of war has already, or may hereafter place at the King's disposal.

It would certainly never be but with extreme reluctance that the King could yield to the painful necessity of exposing so many unfortunate individuals to the fatal but inevitable effects of this atrocious decree; but His Majesty will have at least the satisfaction of feeling that nothing has been omitted on his part to prevent its execution, and that the authors of it can alone be considered responsible for all its guilt and all its consequences.

GRENVILLE.

DOWNING STREET, *November 27, 1798.*

Mr. LIVINGSTON moved that this communication be printed.

Mr. ALLEN objected to the motion as it would delay the consideration of the bill proposing to vest the PRESIDENT with the power of retaliation in certain cases; and it was clear, from this communication, it ought to have no effect upon that bill.

Mr. LIVINGSTON said he was not possessed of that intuitive faculty which the gentleman from Connecticut seemed to have, as he seems prepared to act on the bill alluded to, without scarcely hearing this communication read; and, perhaps, without knowing the dates of the different decrees. The PRESIDENT has told the House that though the obnoxious decree has been repealed, there is still left in force another decree. Does the gentleman from Connecticut recollect the words of that decree? Or has he had time to examine whether that decree is really in force, or not? If he had done this, Mr. L. said he had not done it. It would appear, from what happened the other day, that the House ought not to move quite so rapidly in this business. The House was then told by the gentleman from South Carolina, that it was impossible that this information could have been received by the PRESIDENT, because, if it had been received, the PRESIDENT would undoubtedly have immediately sent it to the House. [Mr. RUTLEDGE said, he did not use the word impossible, but improbable.] Mr. L. admitted this might be the word. But it now appears, that the PRESIDENT has not only received the information then alluded to, but received it officially.

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Mr. ALLEN interrupted Mr. L. by withdrawing his motion. The communication was ordered to be printed, and was committed to the same Committee of the Whole to whom was referred the bill vesting the power of retaliation in the PRESIDENT.

## **MONDAY, February 18.**

### ***Army Increase.***

A bill from the Senate giving eventual authority to the PRESIDENT OF THE UNITED STATES to augment the army. [This bill gives the PRESIDENT authority, in case a war shall break out between the United States and any foreign power, or in case of imminent danger of such war, in his opinion to exist, to organize and raise twenty-four regiments of infantry, one regiment of riflemen, and three regiments of cavalry. The PRESIDENT is also authorized to call out the volunteer corps, on all occasions in which he is at present authorized to call out the militia, provided that he does not call a greater proportion from any one State, than he is authorized to call out of the militia, by the law which directs the 80,000 militia to be held in readiness. If it be necessary to carry this law into effect, two millions of dollars are appropriated for the purpose.]

On the question for reading this bill a second time, it was carried—45 to 37.

### ***Capture of French Vessels.***

On motion of Mr. OTIS, the House went into a Committee of the Whole, Mr. RUTLEDGE in the chair, on the bill encouraging the capture of French armed vessels, by armed ships or vessels, owned by a citizen or citizens of the United States, and for allowing salvage in certain cases. The bill, which proposes a bounty on guns, according to their sizes, having been read,

Mr. McDOWELL observed, that this bill is similar to the one which was two or three different times negatived at the last session. At that time, he considered the situation of this country more alarming than at present, and the conduct of France more likely to drive us to extremities than it has since been. Knowing this, he did not expect gentlemen would have introduced a bill of this kind. Finding however that gentlemen are not satisfied with things as they are, but are desirous of hiring the people of the United States to make war upon France, though they are unwilling to declare war, and not being willing to give his vote to any such measure, he should move to strike out the first section of the bill.

The question was put, when there appeared 43 votes for it, and 42 against it, and the Chairman said "it is carried," before he declared his vote to be in the negative.

A motion was made for the committee to rise, and negatived—43 to 42.

## **WEDNESDAY, February 20.**

MATTHEW LYON, from Vermont, appeared, and took his seat in the House.

### ***Alien and Sedition laws.***

Mr. LIVINGSTON said, he had received, under cover, a number of petitions from the State of Vermont, praying for a repeal of the alien and sedition laws, which he begged leave to present to the House. One of which having been read, in which, among their other objections to the laws, the petitioners complain of having been deprived, by the sedition law, of their Representative in Congress for the greater part of the present session; Mr. L. moved to have the whole referred to the select committee to whom was referred the other petitions relative to this subject; but on Mr. GALLATIN'S suggesting that he understood that committee is ready to report, and that it would therefore be better to suffer the petitions to lie on the table until that report is made, and then have the whole referred to the same Committee of the Whole; that course was taken.

### ***Capture of French Vessels.***

The House took up the report of the Committee of the Whole on the bill for encouraging the capture of French privateers, by allowing a bounty on guns, and the motion being to concur in the agreement of the committee to strike out the first section of the bill,

Mr. MACON said, there were some other observations made the other day, when this subject was under consideration, which he thought very foreign to the subject. The history of this bill during the last session was given. The House was told it was three times rejected—once by trick. He was surprised to hear two gentlemen make use of this expression. If there was any trick, it certainly was among those gentlemen who had so frequently brought the subject before the House. It had been said, also, that it was once rejected by accident. It was the first time he had ever heard it urged as a reason for reconsidering a subject, that certain members had before voted accidentally upon it. Another reason was given, that the vote in the Committee of the Whole had been improperly obtained, by taking advantage of a mistake of the Chairman. By the rules of the House, Mr. M. said, the Speaker, or Chairman of a Committee of the Whole, has a casting vote, or they may tie a vote; but, after the Chairman had declared the question carried, it might be supposed he did not mean to vote, or if he did that he meant to vote with the majority.

Mr. M. said, he had seen a letter printed in the papers from one of our naval commanders in the West Indies, wherein he says, that American vessels sail into the neighborhood of the French islands, in order to be carried in; that they afterwards get away, pretending to have made their escape, and soon return with another cargo. He also mentions having fallen in with one of these vessels evidently steering for a French island, but the vessel's papers were so well managed, and the captain and mate understood each other so well, that he could make nothing of them. If, said Mr. M., the laws for suspending our intercourse with France and her possessions can be so easily evaded, might it not be expected that this law would be evaded, and that privateers might be fitted out in the West Indies, and brought to a certain latitude, for the purpose of being taken? He had no doubt this would be the case.

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Mr. McDOWELL said, that when this bill was before under discussion, he had stated that our situation with respect to France appeared to be more favorable than last year. This was denied by the gentleman from Massachusetts (Mr. OTIS.) He considers our danger greater, and this bill more necessary than at that time; and has gone on to remark, that all that was said about our improved situation with respect to France, were songs only fit for children, and not for the people of America. He was of a different opinion; they were the songs of peace, and as such, he believed, suited to the people of this country, who wish to live in peace. And if that gentleman knew more of the evils attendant on war than he does, he certainly would not be so ready to embrace them as he appears to be.

But he thought the gentleman from Massachusetts mistaken as to our situation; he believed it to be much better than it was at the last session. He formed this opinion from the despatches of Mr. Gerry, who declares it to be his opinion, that France is sincerely disposed to make peace; and more particularly from the PRESIDENT having nominated a Minister to treat with France, though he had declared he never would send another Minister until he should receive assurances that he would be received as the Minister of a great, free, and powerful nation. He supposed, therefore, that the PRESIDENT has received these assurances, and that we have, on this account, some reason to hope, that a reconciliation between the two Governments will take place.

He was opposed to this bill, because it might be the means of bringing the country into difficulties and war; it was giving to one part of our citizens the power to embroil the whole. No necessity has been shown to exist for this law; it is, indeed, said to be necessary to keep down the privateers of France, but we find by letters which have just been published, from the commanders of our armed vessels, that there are very few to be seen. But supposing there are yet a number of them, what better use can our public armed vessels be put to than to go after them? They must either be employed in doing this, or sent where he did not wish them to go, to the European seas, or kept useless at home.

Mr. GALLATIN would not have troubled the House on this subject, had it not been for the remark of the gentleman from Massachusetts (Mr. OTIS) immediately before the adjournment took place on Monday. He told the House that the vote on this subject ought not to be influenced by the nomination of a minister to go to France; and he precluded any answer being then given to the remark, by moving an adjournment.

For my part, said Mr. G., I do not consider this bill as very important in itself, and I have always been at a loss to know why there appeared to be so great an anxiety to have it passed. It is said, we ought not to recede from the ground we have taken; and really, from the arguments of the gentleman from Massachusetts, it would appear that there was a motion before the House to prevent our merchants from arming their vessels, or our public vessels from taking French privateers. This measure brings us to the question, not whether we will recede, but whether we will progress. The object of this bill is not to authorize any new measure, but it is to give a bounty to merchants to do what they are already authorized to do. The only question is, whether it will promote the taking of French privateers? He believed it would produce no effect at all, except the blanks in the bill are to be filled with sums which would produce a very serious demand on our treasury. The object of merchants is to make a safe and quick voyage, and if privateers will keep out of their way, they will never go in search of them: and if they should fall in with a privateer, their aim would be self-defence, and not capture, since to attempt this might hazard the loss of their vessel and valuable cargo, and take from them means of defence against any other attack, since they must put their own men on board the captured privateer.

It is clear, therefore, said Mr. G., that one of two things must take place, either we must give such a bounty on the guns of privateers as will make the expense of taking them greater than the benefit, or else it will become a mere matter of speculation, or small vessels will be fitted out on purpose to obtain the bounty. When privateers are taken by other countries, they are always taken by their vessels of war, and seldom by letters of marque.



But it is said this measure ought to be taken, in order to strengthen the hands of our Minister, by showing our determination to resist, in case an accommodation does not take place. On the same grounds, Mr. G. said, a declaration of war might be urged.

As to the effect to be expected from the appointment of a Minister to treat with France, he considered it merely as opening a door to negotiation. He agreed with the gentleman from Massachusetts, that it ought by no means to be considered as putting an end to the dispute between the two countries. It may succeed, or not. But this step having been taken, he did not think proper to go into a measure of this kind, especially since it can be attended with so little good effect.

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Mr. JOSIAH PARKER said, when he gave notice to the House on Monday of the nomination of a Minister to go to France, and declared that, on that account, he should vote against this bill, he did not do so because he was willing to relax from any of our measures of defence or offence against the French; but because he thought the measure proposed by this bill puerile and ineffectual, and therefore unnecessary. When he made this declaration, he was sorry to differ in opinion from the gentleman from Massachusetts, with whom he had had the honor to vote very frequently. At the same time that he said this, he declared himself ready to abide by every measure of defence yet adopted, and even to take higher ground than has yet been taken: for he had no opinion either of the magnanimity or sincerity of the French Republic. He believed they had no desire for peace, except such as arose from their changed situation. He thought it better, however, not to go into any little, irritating measure, like this. The PRESIDENT had heretofore told the House that he would never send another Minister to France until he received assurances that he would be properly received; he believed the PRESIDENT had received these assurances from the French Minister at the Hague, through our Minister there.

Mr. P. thought the second section of this bill, allowing a salvage on the retaking of any of our vessels, ought to pass; the first he hoped would be struck out.

Mr. PINCKNEY was sorry to differ in opinion from the gentleman just sat down as to the expediency of passing this bill. He did not think it a measure of great importance; but, as an additional measure of defence, it may have some effect, and he was therefore for agreeing to it. He thought the gentleman from Pennsylvania (Mr. GALLATIN) had put the prospect of a negotiation with France upon a proper footing; and he agreed with that gentleman that we ought not to vary the ground we have already taken; but he did not think that any augmentation of force would be going off the ground originally taken.

What, asked Mr. P., was the ground taken at the last session, and acted upon at this? It was, that we should, by all means in our power, prepare for our defence, more especially that we should add to every measure of defence to which our revenue is adequate, on the ocean. We have shown this to be our determination both at the last session and this, and our preparations have only been limited by our ability to make them. This measure, therefore, is a continuance of the same ground.

This bill reverts, therefore, altogether upon the question of expediency, and this he thought the proper footing on which to place it. The gentleman from Pennsylvania has objected to its expediency, because he says it will be inefficacious. Mr. P. would give a short answer to this, which was, that its expense will be commensurate with its utility. There is no doubt, if it has any effect at all; if it induces any private armed vessels of the United States to bring into our ports privateers which are depredating on our commerce, no moderate reward could be too great to be given for this advantage. And if there is nothing done; if the law proves ineffectual, then the public is nothing out of pocket. It is one of those cheap expedients which may be beneficial, but which can have no bad consequences.

Mr. HARPER believed that gentlemen, in their deliberations on this subject, have fallen into some mistakes as to the course which this bill took at the last session. Mr. H. gave the history of this bill, and also spoke of the decision which had taken place in Committee of the Whole as by no means conclusive. On the general policy of the measure, he was not inclined to make any observations. He believed it was well understood; but he would not omit this occasion of declaring, that, in his opinion, its policy had not been changed by the nomination which has taken place of a Minister to treat with the French Republic.

It is said that an intimation has been made, not through the Dutch Minister, but through the Secretary of Legation at the Hague, to our Minister there, that the French government is disposed to receive any Minister Plenipotentiary which we may choose to appoint, suitable to the dignity due to the representative of a great, free, and independent nation. This intimation having been given to the PRESIDENT, he has thought it proper to meet the advance so far as to nominate a Minister, which Minister is to go to France, provided he shall receive assurances of being properly received, and a Minister of equal rank appointed to treat with him.

This change, Mr. H. said, from haughty insolence; from the expulsion of our Minister; from a demand of tribute; from requiring apologies for speeches; from outrage and insult, to the mild language of supplication, must certainly have been owing to the measures of this Government, and therefore clearly evinced the policy and propriety of these measures. We have thus far, said Mr. H., seen the good effects of buckling on our armor, at the same time that we hold out the olive branch. And instead of relaxing, we ought now to brace up the system; not that he would wish to take any new ground but merely reinforce and invigorate the system already established. This he thought the true policy of this country. Whether this application for a negotiation on the part of the French Republic may arise from sincerity, or from a wish to wheedle this country to their own advantage, or because they perceive we are not to be bullied into submission, and

therefore it is best to live on friendly terms with us, he held it wise policy in us to enlarge our means both of defence and offence, until our dispute with France is brought to a close. He, therefore, thought it of more importance to adopt this measure now than heretofore; because, if it is not carried, it may be supposed that we have forborne to adopt it, because we are disposed to relax the instant we have information that a negotiation is likely to be opened, and that they may at any time unnerve our arm by a proposition to negotiate. Therefore, if he had before been against this measure, he should now be in favor of it, because, if it had no other good effect, it would convince the government with which we are about to treat, that the same vigorous measures which have produced this negotiation will still be continued, and that though we are treating for peace, we are preparing for war, and that we are determined to do ourselves justice, if they refuse to do us justice. For these reasons he hoped the bill would pass.

Mr. LIVINGSTON said, that considering how great a favorite this measure had been of its partial parents, it was the most unlucky child that ever showed its face in the House. It had scarcely seen the light at the last session, when it was lost in the short passage from its nursery in the committee to the House, because those who were most interested in its preservation, by accident, did not happen to vote for it. Another accident of the same nature prevented its passage when it was again attempted in the same session. At the interval of a year, the same ill fortune seemed to pursue this unlucky bantling. It had scarcely taken its first step into existence when the same forgetfulness seemed to seize all those who had the care of it. Again, it was lost in the committee; again it accidentally expired; and all the efforts to revive it, he believed, would be in vain. Mr. L. then went into a history of the bill to show that it was lost, not by accident, but because a majority were opposed to it.

Mr. L. said, he understood that France proposes to receive a Minister from this country on the very terms upon which only the PRESIDENT OF THE UNITED STATES has heretofore said he would ever send one. It was said to be improper to recede from the ground we have taken on this account, because the French may not be sincere. He had heard no such idea suggested, and gentlemen certainly do wrong in imputing motives to others without foundation. But when gentlemen come to the merits of the bill, they touch them very lightly. They tell you it is part of our general system of defence. Is this the case? How is it to operate? It is to operate as a measure of aggression, not of preservation, or self-defence; and though he was perfectly willing to preserve our present ground, he did not wish to progress in any measures of hostility, especially when so little advantage can be derived from it as is proposed by this bill.

Mr. DANA said that the PRESIDENT OF THE UNITED STATES, in his Message to both Houses of the 21st of June last, declared, "that he would never send another Minister to France until he had assurances that he would be received as the Minister of a great, free, and powerful nation." The character of the PRESIDENT OF THE UNITED STATES for integrity and political fortitude, is well known and established, and that character is pledged for an adherence to the declaration above recited. Nor had he any idea of his receding from it. With a knowledge of this fact, we are to inquire what is the purport of the information which has been given to this House of a Minister having been appointed to negotiate with the French Republic. For his own part he did not consider the French Government sincere; and he was authorized to think so by the declaration of this House in answer to the PRESIDENT'S Speech. Nor did he think the PRESIDENT believed them to be sincere, and he was authorized in thinking so, from his communication to both Houses at the opening of the session. How, then, is the nomination of a Minister to be understood? It was to be understood in the same light in which we used to appoint Commissioners during our Revolutionary war, who were sent to Europe to treat with Great Britain long before we expected she would be willing to treat for peace; but they were possessed of eventual authority. So, in the present case, the authority proposed to be given to our Minister at the Hague, is only to be an eventual authority, that when he receives sufficient evidence of the sincerity of the French Government, he may proceed to treat with them. Nor did he believe that the Senate possessed any document informing them that the PRESIDENT has already received these assurances.

[Mr. D. here read extracts from the PRESIDENT'S Address to both Houses, from the address of this House in answer to it, and from his reply; in which the PRESIDENT states he can have no confidence in the sincerity of the French Government, while the decree which condemns our vessels as prizes, on account of having articles of British growth or manufacture on board, is in force.]

We know, said Mr. D., that this decree is, however, yet in force; and yet gentlemen pretend to say that the nomination which has taken place is a proof that the PRESIDENT has now some reliance on the sincerity of the French Government; whereas it is nothing more than a conditional appointment, such as he had already stated. No gentleman will hazard his political sagacity by saying, a negotiation is likely to take place whilst that decree is in existence; nor can any gentleman be found who will apologize for it, if it is so atrocious that its repeal must be an indispensable preliminary to any negotiation which may take place. Believing this nomination, therefore, to be nothing more than the naming of a person to treat with the French Government when it shall condescend to do us justice, the arguments of gentlemen built upon it fall to the ground. And if they attend to the declaration of this House, in the address already alluded to, they will find that we ought to advance in our defensive measures instead of receding, or even remaining stationary.

Mr. NICHOLAS supposed during the first half of the speech, of the gentleman who had just sat down, that he meant to vote against this bill, for he could not have supposed that he had quoted the PRESIDENT'S Message to Congress, in June last, for the purpose of making a declaration such as he has made with respect to it. He supposes that the PRESIDENT has received no assurances from the French Republic that our Minister will be received, though he has heretofore said he never

would send a Minister until he had assurances he would be properly received; but that he has appointed a Minister to wait, as it were, at the door of France, for a declaration that he will be properly received. And he supposes that the declaration of the PRESIDENT will in this way be satisfied. Mr. N. believed, if the PRESIDENT has appointed a Minister, he will be received, because he did not believe he would have appointed him until he had good assurances that this would be the case; or, if he has, that he has certainly forgotten his declaration.

The gentleman last up had made use of a very extraordinary argument. He says the French nation is governed by different principles from any other. When we entreat them to be at peace, he says, they insult us; but when we give them cause to wage eternal war against us, they become humble and submissive. Mr. N. believed that this was not the first time that such measures have had this tendency; but it is the first time it has been acknowledged that the measure alluded to (the publication of the despatches containing the unauthorized negotiations of X, Y, and Z, he supposed was meant) was calculated to produce these direful effects. He did fear they were intended to have these mischievous consequences; but he hoped and believed that their being so notorious and palpable have been the means of defeating the intention, and of saving the nation from war, as it showed that the Government of this country had no desire to be at peace. The French saw that a war between the United States and them would have been a war of passion, in which they could have had no possible interest, and which would, above all other things, have proved agreeable to their enemy. They saw that there was a party in this country who wished for this state of things, and he believed the extremity to which things had been carried has defeated the object in view. I do believe, said Mr. N., that France is now disposed to make peace; that she is calling upon us to enter into negotiation, in order that the party in this country who are desirous of war may have no pretext for carrying their wishes into effect.

Mr. N. was astonished, that after a Minister of respectable character, a Minister chosen by the PRESIDENT, and who declared he accepted of the employment from a desire to support his administration, being well acquainted with the disposition of France, from his having resided there a considerable time—has asserted that, previous to their knowledge of the publication of the negotiations of X, Y, and Z, in this country, the French Government were desirous of negotiating a peace; that after having rejected two of our Ministers, and retained a third, the resentments appeared to be satisfied; and that, though, after they had received information of the publication of these despatches, their displeasure was for a while excited, yet before Mr. Gerry left France, the same disposition for peace had returned; though, from the disposition which appeared in this country, they were doubtful how their overtures would be received. And after we have now proofs that they have made overtures, in conformity to the sentiments exhibited in Mr. Gerry's despatches, it was astonishing, he said, that gentlemen should ascribe this offer to negotiate to the effect which the small force we raised has had upon them—a force which could not possibly have availed any thing against such a force as it might be expected would be sent against us, if it was the purpose of France to invade this country.

Mr. RUTLEDGE observed, that the effect of the measures which were taken at the two last sessions of Congress have been so different from what was predicted by the gentleman from Virginia that he was no longer inclined to give credit to his predictions. He has constantly been prophesying, but time and experience have shown his prophesies to be wholly unfounded. It was doubtless in the recollection of the House, that that gentleman thought it would be weak to rely upon a navy; he thought and said that many of the measures formerly taken would plunge the country in war, by causing a declaration of war on the part of France. The gentleman apologized for the length of his speeches, because he thought the measures of the last importance; and that if they were adopted, the scabbard would be thrown away, and it would not be in our power to resume it. But, instead of war, it is now found these measures have obtained for us peace—at least gentlemen say so. The gentleman from Virginia now predicts we shall have peace; but as all the former predictions of that gentleman have fallen to the ground, he trusted a majority of this House will not be inclined to give credit to his present prediction.

Much had been said about the diplomatic skill of France; and he thought her present conduct more deserving of this epithet than any of her former measures with respect to this country. Let gentlemen review the conduct of that country. She first attempted to bully us; but finding that we were not to be frightened, her next object was to obtain delay, in order to afford time for the spirit which had been roused by her injuries, to spend its force. When our Minister, Mr. Pinckney, first arrived in France, he was assured he would be received; but the French had an agent in this country feeling the pulse of the people, and finding that there existed a great deal of French mania, and a party upon whom they could rely, the French Government refused to receive our Minister. This country, still desirous of preserving peace, sent three Commissioners. What was then the conduct of the French Government? Our Ministers remained for months at Paris an unique spectacle, waiting in vain to be received. France has endeavored to palsy our Government—to produce delay—to give time for that noble spirit which has done so much honor to our country to spend itself. When she finds that our efforts to negotiate having failed, we buckled on our armor, and were determined to resist her injustice, the French Secretary of Legation at the Hague is directed to have some conversation with our Minister there; and assure him, notwithstanding this country had done acts enough to justify the most offensive measures, that if he will send another Minister to France, he would be received as an agent of a great, independent, and powerful nation. Gentlemen catch at this; but what is it but an attempt to arrest the arm of the Government of this country, just when it was about to strike a blow? And yet gentlemen are the dupes of this diplomatic skill.

Mr. LIVINGSTON was not surprised that gentlemen who had always been the advocates of war, at

this critical moment, when all the horrors of peace stare them in the face, should seize every opportunity of postponing that dreaded event by questioning the sincerity of the offer to negotiate. [Mr. RUTLEDGE asked whether this had been done? The SPEAKER answered in the negative.] From those gentlemen this was naturally to have been expected, and he therefore excused their vexation and dismay. But Mr. L. said he was not a little astonished that others, who at least professed an attachment to peace, should betray such evident anxiety and uneasiness at its approach. The gentleman from South Carolina (Mr. RUTLEDGE) has said that he wishes for peace; that no class of men are more exposed than his constituents, and that he himself would be a great sufferer by war. Such wishes and such motives he was however inclined to believe would have prompted language very different from that which had just been heard. A gentleman really desirous of peace would not, he should have supposed, travel out of the argument to pronounce philippics against those with whom we were treating, or to question the sincerity of overtures which were made in the mode we ourselves had prescribed.

He would not ask gentlemen who pronounce so decisively on the subject; who tell us that no reliance is to be placed in French professions; that they promise only to betray; that, unlike all other nations, they treat us with disdain when we ask for peace, but like spaniels, crouch and fawn upon us when we use them ill, whether they had calculated the consequences of their doctrine? That would be demanding more from them than their conduct had given him a right to expect; but he would ask whether they had attended to dates, when they arrogated to their measures the credit of producing the present disposition for peace in the Government of France? Let it be remembered, said Mr. L., that the most earnest and pressing solicitations for an accommodation were expressed to Mr. Gerry; that he was repeatedly urged to negotiate a treaty, which it was more than intimated he might have on his own terms; and that, after his repeated refusals to treat, a Minister was designated to carry these pacific intentions to America—and all this before any account of those measures on which gentlemen so much pride themselves had arrived in France. Let it not be forgotten, too, that when the account of these measures did arrive, so far from having a beneficial effect, they were very near producing the one for which gentlemen now tell us they were intended, and for which they were indeed admirably calculated—that of provoking on the part of France, a declaration which could not be obtained here. Mr. Gerry very expressively gives us these important facts. He states the evident desire to accommodate before the arrival of the despatches, and the turn which their contents gave to the negotiation. The discussion was turned to unimportant points; the design of sending a Minister was relinquished; and every thing showed a design to protract the business, until it could be ascertained whether the United States were desirous of peace, or would receive a Minister if he should be sent. In this state of things, Mr. Gerry received orders to return. All further intercourse with France then ceased, until the PRESIDENT, by his Message to this House, declared the terms on which alone he would send a Minister to France. No sooner were these terms known, than the assurance is sent in the very words prescribed by the PRESIDENT, accompanied by expressions of an earnest desire to treat. In all this history, subsequent to the departure of Messrs. Pinckney and Marshall, he thought an evident desire had been shown for an accommodation, the sincerity of which he believed it was our duty to test—not by reproachful speeches and hostile measures, but by meeting their overtures for negotiation in good faith; and while we showed our desire for peace, not to trust too much to our wishes, but retain every measure of defence.

The gentleman from South Carolina (Mr. RUTLEDGE) had mentioned delay. France, he said, always conquered by producing delays. This he thought not a very applicable expression to the rapidity with which gentlemen traced their conquests. But on this occasion it was particularly unfortunate. It appears that the overtures which have now been acted upon were communicated by the Minister for Foreign Relations at Paris, to Mr. Pichon at the Hague, and by him to Mr. Murray, on the 28th of September; and we hear nothing of them until the close of February. He did not know when the communication was received here; but there was at least a probability, from the date, that it was before the opening of the session; before the adoption of all the expensive measures we have undertaken; before the loan was opened at eight per cent.; before the intemperate commentary was written on Mr. Gerry's despatches, with which we have been favored by the Secretary of State. Let gentlemen compare the language of that singular State paper with these proposals made to Mr. Murray; let them examine the respective dates, and then let them talk to us of delay.

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Mr. SHEPARD could not think, with the gentleman from New York, that France is serious in her proposals to negotiate; he believed she meant to deceive us; and sooner than be deceived by them, he would fight the ungodly nation. After some other observations, he sat down, with hoping the question would be taken.

The question was put on agreeing to the report of the Committee of the Whole, and carried—52 to 48, as follows:

YEAS.—George Baer, jr., Abraham Baldwin, David Bard, Richard Brent, Robert Brown, Samuel J. Cabell, John Chapman, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorph, William Findlay, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Thompson J. Skinner, Samuel Smith, William Smith, Richard Dobbs Spaight, Peleg Sprague, Richard Sprigg, Richard Stanford,

Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

NAYS.—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, James Cochran, Wm. Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, Jas. H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, Robert Waln, and John Williams.

The second section was then amended by adding to it the usual enacting clause; but after some observations against passing it by Mr. SEWALL, since the first section had been stricken out on the motion for its going to a third reading, it was negatived. And so the bill was rejected.

### ***Expulsion of Matthew Lyon.***

Mr. BAYARD proposed the following resolution to the House:

"*Resolved*, That Matthew Lyon, a member of this House, having been convicted of being a notorious and seditious person, and of a depraved mind, and wicked and diabolical disposition; and of wickedly, deceitfully, and maliciously, contriving to defame the Government of the United States; and having, with intent and design to defame the Government of the United States, and John Adams, the PRESIDENT OF THE UNITED STATES, and to bring the said Government and PRESIDENT into contempt and disrepute, and with intent and design to excite against the said Government and PRESIDENT the hatred of the good people of the United States, and to stir up sedition in the United States—wickedly, knowingly, and maliciously, written and published certain scandalous and seditious writings, or libels, be therefor expelled this House."

Mr. B. said he had only to remark that this resolution is copied from the record of the trial, which he had in his possession.

Mr. NICHOLAS said, if this had been a candid statement of the business, he should have been willing to have come to an immediate vote upon it; but words are introduced into this resolution (which are words of course in every indictment) which do not particularly belong to this offence, and the truth of which is never inquired into upon a trial. As he wished the nature of the offence to be clearly stated, he hoped the motion would lie for the present.

Mr. BAYARD observed he had already said the terms used are copied from the record itself, and he did not think the gentleman from Virginia had been wiser than the law. He had himself no doubt that all the charges on the record are pertinent to the subject; if not, it would be extremely improper to introduce them. They are charges upon which a jury of the country have decided.

Mr. NICHOLAS appealed to the gentleman from Delaware, and to all other gentlemen of the law who heard him, whether the words here used are not the mere form of the indictment, and unconnected with the act here charged. He moved to adjourn, which motion was carried without a division.

## **FRIDAY, February 22.**

### ***Alien and Sedition Laws.***

Mr. BARD presented several petitions and remonstrances from 1,487 inhabitants of the county of Franklin, in Pennsylvania, praying for the repeal of the alien and sedition laws; which having been read,

Mr. BARD moved to have this petition referred as usual.

Mr. HARPER inquired whether it would be in order to strike out a part of this petition. On being answered in the negative by the SPEAKER, Mr. H. said, he was always unwilling to object to the reference of petitions; but, on this occasion he could not help protesting against an atrocious libel contained in these petitions against the courts and juries of this country. Some time ago a great deal had been said on the subject of courts and juries in this House, and now we find the sentiments, as many others have been, reverberated in the form of petitions. It is here said, "that the sedition law had, in its execution, been used as a means of private vengeance, personal enmity, and party resentment." A charge so unjustifiable, and so untrue, upon the courts and juries of this country, he could not suffer to be referred without his protest.

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Mr. GALLATIN observed, that the reference of these petitions is objected to, on account of what the gentleman from South Carolina calls a libel, which makes a part of these petitions. This, said Mr. G., is going upon the ground, which the greatest enemies of these laws have barely suggested might be taken, but which they thought scarcely possible, viz: that the right of petitioning might next be restricted, since the liberty of writing and speaking on the measures of Government was

by law restricted: and now, taking it for granted, that the allegation contained in these petitions is untrue, the gentleman from South Carolina wishes to refuse these petitions a reference, without examining whether it is true or not. The petitioners say that the sedition law has been carried into effect under the operation of party spirit and personal revenge. The gentleman says that this is not true; but he does not want to have the allegation examined, in order to discover whether it be true or not, but to dismiss the subject at once; to tell the people, "You shall not be permitted to lay your petitions before us, if you dare to say that laws are carried into operation to gratify party spirit or private revenge, (for nothing is said of courts and juries,) if they contain such allegations, we will reject your petitions." Mr. G. hoped, on examination of the fact, the House would be convinced that though the charge is not a libel, that it is at least a gross mistake; that no such personal enmity, party spirit, or private revenge, has taken place, either in the commencement of any prosecution under this law, or in any decision which has taken place. But thus to object to the reference of petitions, would be to say that we have the power of defining the nature of petitions; that they may apply to this and that object, but that there are certain points which the people may not touch. He wished to know whether the people have not a right to say, if they choose, that the administration of justice is corrupt? and whether, if they do say so, the fact ought not to be inquired into? It certainly ought, and he was surprised to hear such an objection made. It must have arisen, because these petitions are grating to the feelings of gentlemen who are favorable to these laws. He hoped, on recollection, that the reference of petitions does not imply an approbation of the sentiments contained in them, that the gentleman from South Carolina would permit these petitions to be referred.

Mr. HARPER was not surprised that the gentleman from Pennsylvania should defend these petitions, for reasons which every man must know. What he has said upon the subject is no more than a repetition of some things which we have before heard. He agreed that, when grievances are complained of, they ought to be examined; and if the people were to complain of a maladministration of justice, the fact ought to be inquired into; but when the repeal of a law is prayed for, it certainly cannot be proper for petitioners to go into charges against the administration of courts and juries, by saying that prosecutions are carried on under party malice and party revenge. To do this is to strike at the vitals of our constitution. The gentleman from Pennsylvania likes this, perhaps, from party motives, but he ought to remember that it is an instrument which will cut both ways; and the use of which, if he has any respect for the laws and rights of his country, he may live to regret having countenanced. Mr. H. said, if in order, he would move to refer this part of the memorial to a select committee, with a view of inquiring into the subject-matter, and report their opinion thereon to the House.

The SPEAKER declared such a motion out of order; and, after some observations from Mr. NICHOLAS, in which he said the gentleman from South Carolina had answered himself, by allowing the propriety of a reference at all; and observed, if because these petitions complained of the administration of one part of our Government (which, however, he did not allow they do) they were to be rejected, it might be expected that, hereafter, no petition would be received that complained of the maladministration of any department of the Government.

The reference was carried, there being 55 votes for it.

Mr. GALLATIN presented petitions from six hundred and seventy-eight inhabitants of Chester County, praying for the repeal of the alien and sedition laws, in the same words with those presented yesterday.

### ***On expelling Matthew Lyon.***

Mr. BAYARD called up for consideration the following resolution, which he had laid upon the table a day or two ago:

The resolution having been read, Mr. B. presented to the House a copy of the record of Mr. Lyon's trial, which was read by the Clerk, after which,

Mr. B. observed, it would not be necessary to trouble the House with many observations in support of this resolution. The facts upon which the resolution is founded, are proved to be incontrovertibly true, by the record which had just been read. The only question, therefore, before the House was, as to the consequence of the fact, or whether the crime of which the member in question had been convicted, is a sufficient cause for expulsion. Mr. B. referred the House to that clause of the constitution which gives the House the power of expulsion. The power, said he, is unlimited. The House has the power to expel a member for any crime, or for any cause, which, in their discretion, they conceive has rendered him unfit to remain a member of the body. Perhaps some gentlemen may think that it is improper for the House to take notice of acts done by its members out of the House, but he believed the fallacy of such a doctrine would be easily seen. It was certainly possible, and might, therefore, be imagined, that a member of this House, might be guilty of murder, treason, perjury, or other infamous crime, and would it be asserted that a man, defiled by crimes of this kind, ought to be suffered to represent a portion of the people of the United States in the National Legislature? He trusted that no gentleman, who valued reputation, would contend for such a point. The question, then is, said Mr. B., whether the act in question is an act of that description, the commission of which ought to induce the House to expel the convicted member? In his opinion, the crime was of the first political magnitude. A crime not only affecting the members of this House, but the whole community, as its consequences go to the subversion of the Government. This Government, said Mr. B., depends for its existence upon the good will of the people. That good will is maintained by their good opinion. But, how is that good opinion to be preserved, if wicked and unprincipled men, men of inordinate

and desperate ambition, are allowed to state facts to the people which are not true, which they know at the time to be false, and which are stated with the criminal intention of bringing the Government into disrepute among the people. This was falsely and deceitfully stealing the public opinion; it was a felony of the worst and most dangerous nature. The member from Vermont has been convicted of doing this, with a view of exciting the hatred of the people against the PRESIDENT and Senate, and of stirring up sedition in the country. This, in his opinion, was a crime of the greatest magnitude, since it is all-important that the channel by which information is conveyed to the people should be preserved as pure as possible; for, if men are allowed to state things as facts, which they know to be false, what will be the consequence? However upright the Government, or however correct the First Magistrate may be, the hatred of the people may be excited against them by means of false information; and when a foreign foe, or domestic traitors, join the standard of rebellion, the best constitution and government may be subverted. Therefore, that falsehood which deprives men of the means of forming a true judgment of public affairs, in this country, where the Government is elective, is a crime of the first magnitude. The member from Vermont has been convicted, under aggravated circumstances. He was on this floor when the law, against which he has offended, was passed. He, therefore, was well acquainted with the law; yet, with this knowledge, he has falsely, scandalously and maliciously, defamed the PRESIDENT OF THE UNITED STATES, with a view of exciting hatred, and stirring up sedition. These facts are recorded and incontrovertible; and he conceived it would be out of order to call them in question.

Mr. B. concluded with appealing to the candor and honor which he expected to find in the House, whether a member, the malice of whose heart, and the falsehood of whose pen, stood recorded; who had, from the worst and basest motives, violated a law which he had himself assisted to make, was fit to hold a seat in that House. Will any one say that a man who does not keep the laws ought to be allowed to make them? Certainly, nothing was more repugnant to principle and propriety; and, as he conceived the member from Vermont was notoriously and exemplarily guilty in this respect, an obligation rested on the House to expel him. Mr. B. said he brought forward this resolution from a sense only of public duty, from a strong feeling for national character. He knew but little, and should be happy if it were less, of the member who was the object of it. He could not be suspected of having been induced to the step he had taken by the miserable gratification of offering violence to the feelings of the member. He believed that nothing he had said, nor any thing which could be said, would awaken a single feeling. His sensations were of another sort, and excited in another manner. Mr. B. conceived he had done his duty, and if the House refused to purify itself by the expulsion of the member, it was a satisfaction to him to reflect that it would appear to the world that he had no share in the disgrace.

Mr. NICHOLAS had hoped that the gentleman from Delaware would have shown to the House something in this transaction which made the character of the member alluded to so infamous as to have rendered him unfit to hold a seat in this House. He should have thought that, after a member of this House had suffered so severely as the member from Vermont has suffered by fine and imprisonment, it would have been thought necessary to go into a consideration of the nature of the offence of which he is said to have been guilty, and to have shown that the guilt attaching to him was such as to defile the characters of the rest of the members to sit with him, before a vote of expulsion was taken. Indeed, Mr. N. had supposed that there had been but one opinion on this subject, and that no attempt would have been made to have inflicted a second punishment. The gentleman from Delaware, Mr. N. said, had confined himself in his declaration about this offence, to its being an offence against one of the laws of the United States, without showing the House what the offence was, or wishing them to form a judgment upon it.

Mr. N. was surprised at this second prosecution, because, if gentlemen will speak candidly according to the opinions which they formerly delivered in justification of the law, they will acknowledge that the whole of the charges brought against the member from Vermont ought not to have been inquired into under the sedition law; since two of the counts contained in the indictment are mere matters of opinion, not containing the least suggestion of fact; and the third rests so much on matter of opinion, that it is impossible, according to a sound construction of the law, for any guilt to be incurred by the act.

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Mr. N. wished the House to attend to the nature of the charges exhibited against the member from Vermont, and to say whether they were not of such a nature as to render it difficult to say whether they are well founded, and, if they are well founded, then they are innocent. In the record from which he had copied the charges, there are three counts; two of them are founded on extracts taken from a letter, called "Barlow's Letter;" the third is for sentiments contained in a letter of the member's own writing. The two first turn on mere matters of opinion. Mr. N. read the counts as follows:

"The misunderstanding between the two Governments has become extremely alarming, confidence is completely destroyed, mistrusts, jealousy, and a disposition to a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come before your Executive—I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe, before the coming and second coming of Pinckney; had it guided the pens that wrote the bullying Speech of your President, and stupid answer of your Senate, at the opening of Congress in November last, I should probably have had no occasion to address you this letter. But we found him borrowing the language of Great Britain, and telling the world that, although he should succeed in treating with the French, there was no dependence to be placed on any of their engagements; that their religion and morality were at an end; that

they had turned pirates and plunderers; and it would be necessary to be perpetually armed against them, though they are at peace. We wondered that the answer of both Houses had not been an order to send him to a mad-house. Instead of this, the Senate had echoed the Speech with more servility than ever George III. experienced from either House of Parliament.

"As to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness, and accommodation of the people, that Executive shall have my zealous and uniform support. But, when I see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, or selfish avarice; when I shall behold men of real merit daily turned out of office for no other cause but independence of sentiment; when I shall see men of firmness, merit, years, abilities, and experience, discarded on their application for office, for fear they possess that independence; and men of meanness preferred for the ease with which they take up and advocate opinions, the consequence of which they know but little of; when I shall see the sacred name of religion employed as a State engine to make mankind hate and persecute one another, I shall not be their humble advocate."

The two first counts contain the opinions of the writer on public and notorious acts. No act is charged upon the PRESIDENT and Senate which is not notorious. It is not an attempt to impose upon the world a belief of facts which do not exist. He called upon gentlemen of the law and others to say whether this law was ever intended to extend to matters of opinion. He was astonished that a record of this kind should ever come from a court of the United States. The law declares that the publications which it proposes to punish, shall be false and scandalous. Do gentlemen say opinions can be false which do not contain matter of fact? Another part of the law gives to the party accused the privilege of giving the truth of the fact charged in evidence; but it is impossible that this can be done, where the matter charged consists of mere opinion; and juries could not possibly say whether an opinion be true or false. They can only determine whether or not it is their own opinion.

If a man is to be subject to a prosecution for his opinions, what will be the consequence? We are, said Mr. N., sent here to form an opinion, and, when we return home, we are expected to deliver that opinion to our constituents: but, if the propriety of our opinions are not to be judged of by ourselves, but by others, what will become of us? No man will be safe; for, though he may have formed his opinion as correctly as possible, if twelve men are to sit upon it, and, if it should not happen to be their opinion, or if they should not believe it to be his upon whom it is charged, he will be liable to a severe fine and imprisonment. Is it proper, Mr. N. asked, for legislators to be placed on this ground? Or, will gentlemen say it was their intention to place themselves in this situation? They certainly will not; for who would consent to sit here, or of what use would it be, under such conditions?

The third count is somewhat of a different nature. Mr. N. said, in speaking on this subject, he was not giving his own opinion. If he were to give it, he should say he had no foundation for the fact here stated. There is no mode, however, of ascertaining whether or not it was the opinion of the member from Vermont, and if it were his opinion, there being no mode of determining whether the opinion is correct or otherwise, it was impossible to act upon it.

With respect to the first part of the third count, which speaks of "every consideration of the public welfare being swallowed up in a continual grasp of power, &c.," he supposed it would be agreed that it was an expression of the affection of the mind—an opinion upon the disposition discovered by actions. That part of it which relates to "men of real merit being turned out of office for no other cause but independence of sentiment, &c.," suggests a fact, but if this was his opinion, it is a matter so much connected with opinion, as to be scarcely distinguishable from it. And shall we be told, said Mr. N., that a member ought to be banished from his seat for uttering a sentiment of this kind, after having been told by the gentleman from Delaware, and others, that it was a complete disqualification for office for a man to hold a different political opinion from that of the Executive? He trusted gentlemen could not seriously think so. For, since if the fact were true, and the member from Vermont had adduced (as he believed he might have done) two or three instances of men being turned out of office merely on account of their political opinions, still the jury might have asked, "how do you know that the men displaced possessed superior talents to those who succeeded them?" This, though true, could not be proved, therefore the member from Vermont could not have availed himself of the advantage held out by the law. Gentlemen may say this is not necessary, as this law goes to many offences not capable of this proof; they may say that the British law on this subject goes to many others. But our law is not the same with the British law; there, though the libel be true, it is not less a libel, which is not the case under our law, which is an important distinction.

It was clear, Mr. N. said, that such parts of the counts as went to insinuate fact, were so connected with opinion, that it was impossible to separate them. It could not be said that the jury were competent to decide upon the truth of the case. The decision of twelve honest men on a point of fact, is, perhaps, the best security that can be devised for the security of justice; but if a man is to be convicted because his opinions and those of a jury are at variance, there is an end to all security. Men's opinions are as various as their faces, and the truth or falsehood of those opinions are not fit subjects for the decision of a jury.

Upon what ground does the member from Vermont stand? He is a representative of the people; and gentlemen could not shut their eyes against a notorious fact, viz: that the constituents of this



member, with a full knowledge of this prosecution, have re-elected him; and if the people of Vermont choose to have a person possessing these opinions to represent them, who have a right to say they shall not? Indeed, if they are to be represented at all, they must be represented by the man whom they choose to elect.

The gentleman from Delaware had said, that all the offences of Mr. LYON were greatly aggravated from his being a member of this House. Mr. N. was of a different opinion. He thought it incumbent on a Representative to disclose his opinions on public affairs to his constituents; and this disclosure will become more necessary, in proportion as such opinions may be offensive to the administrators of the Government; as, when all goes on smoothly and well, there will be no necessity for calling the attention of the people to public concerns.

The gentleman has also said, that it would be out of order to contest the truth of any thing contained in this record. He thought differently, and that if it was proper to act upon the subject at all, it would be proper to assign a day to have a fair hearing of the business, to enable the House to judge of the facts. For gentlemen will not say, that courts and juries are so infallible, that there is no case in which the decision of a court ought to be revised. If the member from Vermont should think it necessary to demand this investigation, the House ought to submit to it.

There was something in that record, Mr. N. said, which was very singular indeed; something which requires investigation; for unless the fact is different from what his information made it, a most extraordinary circumstance was connected with the third count. It will be seen, from the showing of the record, that the letter upon which the charge is founded, was written before the passage of the law on which the offence was tried. If he was not misinformed, no evidence was adduced in court to show that Mr. LYON did any act subsequent to the writing of his letter in the publication, and that though the thing appeared in print after the law took its effect, all that was done by the writer was done before the law was passed. He thought, therefore, before the House acted upon this subject, an inquiry ought to be had upon it. He did not know what were the wishes of the member from Vermont himself on this subject; he had not put the question to him, because he thought there was no offence contained in the record of which the House ought to take notice. He would say farther, that believing most religiously that the law against which the member from Vermont is said to have offended, is a violation of the constitution of this country, he could not without a breach of his oath, do any act to punish a breach of that law.

Mr. LYON said, he did expect that if he was to have had a second trial, he should have been at liberty to have adduced the evidence upon which a jury had already decided. Gentlemen who have been able to obtain a copy of the record, which he, notwithstanding all his earnest desires to obtain it, had not been able to procure, might also have obtained a copy of the testimony on which this judgment was founded.

Mr. L. thought he had received an unjust trial and a hard sentence. He said unjust, because he was frowned upon by the Judge in a very abrupt manner when he challenged two of the jury, which he had a right to do by a law of the State. The Judge answered me, said Mr. L., "You are unacquainted with the laws of the State." Mr. L. observed that there is a law in the State of Vermont for punishing persons who speak against the public authorities, which gives to the accused the privilege of challenging six of his jury. This privilege, said Mr. L., I was denied, exclusive of the political packing of the jury who tried me. This is the kind of treatment I have received: but I shall submit to the decision of the House without occupying their time on my account, further than my enemies are desirous of so occupying it.

Mr. ALLEN said, nothing but the respect which he entertained for the character who presided at the trial of the member from Vermont would have drawn him from his seat on that occasion. But if he understood the member from Vermont, he said he was frowned upon by the court when he challenged two of his jury, and having been present at the trial, he was able to speak to that fact. He understood the member to make a challenge, and the Judge told him he did not know the laws of Vermont; but so far from any harshness being used towards the member, he must say he never saw a trial more fairly conducted. He thought it did honor to Judge Paterson, who presided. When the member persisted in his opinion, that a law of the State gave him a right to challenge his jury, the Judge replied, "if that was the law, it would require consideration;" and he inquired of the district judge if that was the law, who said it was not. As to the member's being precipitately tried, [Mr. LYON observed, he did say so,] if ever there was a case deliberately tried, or in which unexampled indulgence was shown to the accused, it was this.

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The member from Vermont had spoken of the jury being packed. He had seen this asserted in the papers, and the public ought to be informed that the charge is wholly untrue. The member from Vermont must know it is untrue. The jury was drawn from the boxes as is usual, in consequence of an order made by the court in May, which pointed out the particular towns from whence the jury were to be drawn. Mr. A. concluded by saying, he was sorry to find any man base enough to attack the gentleman who presided on this trial, as he believed his conduct to be unimpeachable.

Mr. BAYARD said, considering the lateness of the hour, he should limit his reply to a few observations. He did not know what would bind the gentleman from Virginia; he denies the obligation of the law, and the credibility of the record. He could not expect, therefore, that he would be bound by the obligation of reason.

The gentleman from Virginia, in his defence of the member from Vermont, has gone upon the ground that mere matter of opinion cannot be construed into a libel. He begged leave to differ from that opinion, for which there was not the least ground. Four things, Mr. B. said, are necessary to constitute a crime under the law in question: it is necessary that a publication should be seditious, false, scandalous, and malicious. When these four things appear, whether the

publication consists in the assertion of matter of opinion, or matter of fact, it will be within the law, which makes no discrimination on the subject.

Mr. B. did not think it altogether in order to question in this place the regularity of the proceedings of a court of justice. According to the organization of this Government, the powers of it are distributed, and the Judiciary in its department is as sovereign as the Legislature; and it is as improper for the Legislature to question the proceedings of a court as it would be for a court in common cases, to question the obligation of a law. What has the fact been? The judgment of a court has decided, on the verdict of a jury given upon oath, that this case was within the law; and, after a judicial determination, is it for a member of this House to say that the case was not within the law?

But Mr. B. could conceive no idea more groundless than that of the gentleman from Virginia, that mere matters of opinion are not grounds of charges under this law. This the gentleman had made his *alpha* and *omega*. He wished to know how a distinction was to be made on this subject? If an opinion upon a fact be expressed, and that opinion is false, scandalous, and malicious, ought it not to be subject to prosecution? Does the gentleman say opinions cannot be false? Mr. B. said, he would put a case to the gentleman from Virginia, without any intention of personal reflection, but merely for the sake of the argument. Suppose any person were to say, that in *his opinion*, that gentleman was a *rogue*, or any other *opinion* casting a gross imputation, would the offence be less, because he had, instead of saying expressly he was a rogue, merely given it as his opinion? But if the gentleman insisted opinions could not be false, how would he get rid of the conclusion? This, Mr. B. conceived, might be sufficient to show that opinions may be false. Or, suppose a man were to say that, in his opinion, another was a traitor, ought he not to be punished as severely as if he had asserted the thing as a fact? The intention and wisdom of this law was, Mr. B. said, to caution men to be guarded in the publication of their opinions; since, by the expression of false opinions the minds of the people may be alienated from their Government. Suppose, for instance, that the gentleman from Virginia, or the member from Vermont, were to harangue the people, and say, in their *opinion*, this law is unconstitutional, and, therefore, not binding; that it ought not to be obeyed, but opposed by force; that it was made by men grasping after power, in defiance of the best interests of their country, in order to answer their own private views. Although this all might be mere matter of opinion, would it not come within the meaning of the law in question? No man on earth, Mr. B. said, would be more opposed to any measure for restraining the expression of honest and well-intentioned opinions, than himself. All that this law does, is to restrain false, malicious, and scandalous opinions. And will the gentleman from Virginia say, that the good of the country, or its liberty, will be promoted by indulging in an expression of what is false, scandalous, and malicious? Could this be liberty? He thought not. Every man, under this law, has the liberty of publishing what he pleases, taking the responsibility upon himself for the truth of what he writes. If he writes only what is true, he is not liable to punishment; if what is false, and that maliciously, it is only reasonable he should be punished for his falsehood and malice.

Suppose a common case, that a man were to say that, in his opinion, another was insolvent, a bankrupt, or a thief, would he not be answerable for this opinion? He certainly would. And ought a man to be permitted to slander the Government and not an individual? If the licentiousness of the press be allowed to go thus far, there will be nothing safe in character; it will always be in the power of a malicious person to rob the best men of their reputation with impunity. He presumed, therefore, that there was no ground for the distinction which the gentleman had attempted to draw.

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The gentleman from Virginia had called upon the advocates of this resolution to show, that the member from Vermont could be punished a second time. Mr. B. did not know that the expulsion of a member from his seat could be considered in the light of a punishment. It was merely lopping off from the Legislative body a rotten member who contaminates the whole system. This was done without regard to the member himself, but with a view solely to the health and purity of the body of which he is a member. The constitution, however, left no doubt on the subject.

It is said that the member from Vermont has been re-elected, since his offences were known. He wished the gentleman from Virginia to say, how this fact was ascertained. At one moment he disputes the truth of the record, and says it cannot be considered as conclusive or creditable; yet, at another, he asserts a fact, upon the grounds of an extract of a letter, or a paragraph in a newspaper, of which this House could take no notice. The member was not re-elected to the present Congress, nor was any return made of his re-election to the next. Suppose he had a majority of votes at the late election, may it not hereafter appear that the election was carried by corruption or fraud, and that the member is not entitled to his seat?

It is suggested as a fact that the letter of the member from Vermont was written before the law passed; but the crime is not in the writing of the letter, but in the publication of it. There would have been no crime in scandalously writing, if he had not published the letter. The crime consisted not in the wickedness of his own heart, but the intention to corrupt others; the design to scatter firebrands through the community, with a view of exciting insurrections. If, therefore, he could have proved before the court and jury that he was not accessory to the publication after the passing of the law, he would doubtless have been acquitted; and though he did not think highly of the talents of that member, he supposed, if this had been the case, he would have had wit enough to have availed himself of it.

He would say a word with respect to the consequences of the crime upon a member. In England, a member of the House of Commons may be expelled for libellous matter. Such was the case with Mr. Wilkes; though in this case, the transaction was afterwards expunged from the journals, it

was not done upon the principle that the original expulsion was not justifiable, but because he had been expelled for the same offence, after he had been re-elected to the same Parliament.

Believing, as he did, that the member in question disgraced the body to which at present he belonged, he hoped the resolution would be allowed to wash away the blot which marked and disfigured this branch of the Government.

Mr. GALLATIN confessed that, though there were some reasons which diminished his surprise at seeing this resolution on the table, he did not expect to have heard it defended on the ground which the gentleman from Delaware had taken in his last speech. He did not expect that when a judgment, awarded under the sedition law, was under consideration, a gentleman should rise and tell the House that this law applies to the publication of opinions as well as to that of facts; and it was less to be expected from the very gentleman who introduced an amendment into that law, providing that the truth of a charge may be given in evidence. His present declaration amounted to this: that those words were introduced in order to deceive the public, since they could be of no real use.

The gentleman from Delaware had constantly confounded matter of fact expressed, not positively, but only as the belief of the writer, and opinions or deduction from facts. If a man, with a view of defaming the government, publishes that, in his opinion, according to his belief, a certain fact does exist, which is susceptible of proof, and is found to be false, the publication, by the law, is undoubtedly a libel. Thus, if a man says that, in his opinion, a man is a thief, a bankrupt, or insolvent, it is not less a libel, than if he said such a person was positively so, because these things are susceptible of proof. But, when we speak of opinion, as distinct from fact, we speak of opinions not susceptible of proof, because they depend upon reasoning, and different opinions may be deduced from the same facts; therefore, we say that such opinions are not matter for prosecution even under this law. But, the gentleman from Delaware says that all opinions are liable to be prosecuted, provided that they can be proved to be false, scandalous, and malicious. Proved false! And who are the judges? To be sure, twelve jurymen, who are sworn to give a verdict according to evidence. And how can the truth of things which cannot be proved by evidence, be determined by evidence? An opinion may be incorrect; and, if judged incorrect by the gentleman from Delaware, it is, according to his reasoning, to be deemed false, and liable to prosecution.

The House had been told by the gentleman from Delaware, that it has nothing to do with this trial, any further than the record; that it ought to be taken as complete evidence of the facts which it contains, which ought not to be disputed. He also tells the House that courts of justice are as independent of the Legislature, as the Legislature of them; that this House has nothing to do with the crime; that it is the conviction only which they ought to take cognizance of. If, said Mr. G., the gentleman from Delaware had not brought forward the resolution now under discussion, we would have had nothing to do with the business. We did not bring forward the subject; we have nothing to do with it. Mr. G. added, I believe I go too far when I say we have nothing to do with it; for I believe it was the duty of the House to have sent the Sergeant-at-Arms for the member from Vermont, and demanded him from confinement, that he might have attended to his duty in this House.

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[The SPEAKER said this was not now the question.]

Mr. G. knew this was not the question; he mentioned this to show that the House might have had something to do with the business. But we did not, said he, bring the subject before the House; and, if we have nothing to do with the decision of a court, that decision has nothing to do with us. If the member from Vermont is to be expelled, he ought to be expelled, not because he has been convicted, but because he has committed a crime which renders him unfit to retain his seat. What is that crime? It is stated in the record: and, stated as it is, he did not believe it was sufficient to ground a motion of this kind upon. Whatever is contained in these charges, which is capable of proof, ought to be taken into consideration, but not what is mere matter of opinion. It was generally allowed, he believed, that the paragraphs from what is called Barlow's letter, are of this last description. With respect to the other part of the charge, viz: the extract from a letter said to be written by the member from Vermont himself, to which he meant to confine his observations, he would beg leave to state it. [Mr. G. read it.]

Mr. G. said, the whole of the paragraph was hypothetical; but, supposing that the member from Vermont had declared it as his opinion "that the efforts of the Executive power were not bent on the promotion of the comfort, the happiness, and the accommodation of the people," he wished to know whether this could be considered as a declaration of fact or opinion? There is, perhaps, no measure passed by Congress, which one or other may not think will be contrary to the happiness, comfort, and accommodation of the people of the United States. We had, said he, the other day, the question of a navy before us, the establishment of which many believe is necessary for the promotion of the comfort, happiness, and accommodation of the people; whereas, in my opinion, and in the opinion of many others, it will produce the very reverse. How is this question to be decided? And yet it is known that the President, in his writings and speaking, has recommended the establishment of a navy; and persons writing and speaking against this system, which they ought to do, if they believe the system inimical to the United States, might be charged with bringing the Congress and PRESIDENT into contempt. But, doubtless, this is a mere matter of opinion, and not susceptible of proof by evidence. In order to prove the truth of either assertion, you must bring forward a dissertation *pro* and *con*.

The next part of the paragraph, viz: "when I shall see every consideration of the public welfare swallowed up," &c. So far as relates to the first member of this sentence, he did not see how it

could be proved. He was not of opinion that every consideration of the public welfare was swallowed up in a continual grasp for power; but he did believe that there was a constant disposition, not only in the Executive, but in many gentlemen on this floor, to increase the power of the Executive.

[The SPEAKER said, neither this remark, nor the observations on the Navy, were in order.]

Mr. G. said, that he always wished strictly to adhere to order, and in order to avoid committing any further mistake, he desired to be informed why it was out of order? Was the argument not in point; or was it the declaration of his own opinion, as he went along, that was out of order? He wished to know, as he meant to be guided by the rule adopted by the Chair.

[The SPEAKER repeated that the gentleman from Pennsylvania had been out of order.]

Mr. G. proceeded. With respect to that part of the paragraph which says, "when I shall see men of firmness, &c., discarded on their application for office," &c. This, said Mr. G., is, in some degree, matter of fact, and in some degree, matter of opinion. It is a matter of fact, so far as that men of firmness, experience, &c., have been turned out of office; and matter of opinion as to what is said of men of meanness being preferred in their place. I do believe, said Mr. G., that the first assertion is true; and what is here written is no more than an illustration of what has been declared upon this floor, that men of certain political opinions, however capable, experienced, firm, and virtuous they might be, were unfit to hold offices. This, Mr. G. said, was the only fact which could be brought under the law, and he thought it a fact capable of being proved to be true. Mr. G. adduced, as evidence of the fact, the cases of the late Commissioner of Revenue for the United States, and of the Commissioner of Loans for the State of New Hampshire, who, he said, it was evident, were turned out of office on account of their political opinions. And he read, in support of his assertion, the publication of the late Commissioner of Loans of New Hampshire.

Another part of this paragraph speaks of "an unbounded thirst for ridiculous pomp." This, said Mr. G., is mere matter of opinion. Take the member from Vermont to the house of the PRESIDENT, and he may call its furniture and appendages, ridiculous pomp; take a member from a different part of the country, and he may declare every thing decent and plain; but take an overgrown nobleman from Great Britain into the house of the PRESIDENT, and he would set down every thing he saw as mean and selfish.

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But, I insist upon it, said Mr. G., that matter of opinion ought not to be subject to cognizance by this law. What, said he, is the nature of the crime now proposed to be punished by the expulsion of the member from Vermont? We are told that he has published and uttered false, seditious, and malicious writings; that though these writings may be only matter of opinion, yet if those opinions are false, they come under this law; and, also, that such writings have a tendency to stir up sedition and insurrection.

Mr. G. would not repeat what had been said as to the unconstitutionality of the law under which the member from Vermont had been convicted; but this alone would be a sufficient reason for him to vote against the present motion. But, supposing the law constitutional, is the crime an infamous one? Certainly not. It is a political crime, and will always be determined according to the situation of the parties at the time. For, said he, we may say as much as we please about the purity of our courts and juries, and of our own purity; decisions upon political questions will always be influenced by party spirit. It is we, said Mr. G., that have introduced this spirit into the courts; and having given them political questions to decide, it need not be expected that courts will be free from party prejudice any more than others. Therefore, the falsehood or maliciousness of a publication will be determined by the political opinion of the jury.

As to the manner in which the trial of the member from Vermont had been conducted, he knew nothing of it. He wished the gentleman from Connecticut, (Mr. ALLEN,) who, it seems, was present at the trial, would inform the House what proof was adduced to the court to show that the letter of Mr. LYON was published by him after the sedition law passed. The letter is dated the 20th of June, the law was passed on the 6th of July, and the letter was published in Vermont on the 30th of July. He should be glad to know whether any evidence was adduced to show that Mr. LYON did any thing relative to that publication, after writing the letter from Philadelphia on the 20th of June? If not, it will appear strange, indeed, that he should have been punished for an act done prior to the passage of the law under which he was convicted.

As to the manner in which the jury had been summoned, he supposed it had been done in the usual way. Without saying, however, that the jury was packed, which he did not believe, yet, if the towns out of which the jury was selected, were the towns which had never given Mr. LYON but one or two votes at his election, it necessarily results that the jury were his political enemies; and being called upon to try him for a political offence, they would, of course, convict him.

Mr. G. said, the lateness of the hour would prevent him from detaining the House longer. He would only observe that, considering that the member from Vermont had been tried for a political offence, by a jury opposed to him in opinion, and upon a law passed on political ground at the last session; that he had been punished by an imprisonment of four months, and by a fine of one thousand dollars; that he had been deprived of his seat in the Legislature for three months: he thought it would have been better not to have proposed this resolution.

If this resolution should be adopted, it would follow, Mr. G. said, that every member who shall write any thing which is contrary to the opinion of a majority of this House, whether what he writes be founded in truth or not, will be liable to be expelled, in order to purify the House. Mr. G. thought persecution had followed the member from Vermont long enough. Every candid man must acknowledge that, if he has committed an offence, he has already been sufficiently punished

by fine and imprisonment; to expel him from his seat, would carry with it an idea of persecution to the public, and to his constituents, that they would not be permitted to have a representative on this floor. He knew the circumstance of the member from Vermont's having been re-elected could not be introduced as an argument in his favor, but it might serve to show that what he had suffered for was no offence in the eyes of his constituents.

The question was put; when there appeared 49 yeas and 45 nays, as follows:

YEAS.—John Allen, Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William B. Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, John Wilkes Kittera, Samuel Lyman, James Machir, William Matthews, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Josiah Parker, Thomas Pinckney, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Robert Waln, and John Williams.

NAYS.—George Baer, jr., Abraham Baldwin, David Bard, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorph, William Findlay, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Thompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thomas Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

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The SPEAKER, declaring the state of the vote, said, the constitution requiring two-thirds of the members present to expel a member, the resolution is not carried.

### **SATURDAY, February 23.**

Mr. J. PARKER, from the Navy Committee, reported a bill authorizing the augmentation of the Marine Corps; which was committed.

### **MONDAY, February 25.**

Mr. GREGG presented two petitions praying for a repeal of the alien and sedition laws; the one from Cumberland County, signed by 270 persons; the other from Mifflin County, in Pennsylvania, signed by 314 persons.

Mr. GALLATIN presented another petition of the same kind from Chester County, signed by 692 persons.

Mr. LIVINGSTON, one of a similar nature, signed by 2,500 citizens of New York.

Mr. HEISTER, one of the same kind, from 1,400 inhabitants of Berks County.

Mr. BAYARD, one from the inhabitants of Newcastle County, State of Delaware, signed by between 700 and 800 persons.

Mr. BAYARD and Mr. BROWN each of them presented petitions to the same effect, signed by a small number of persons.

The whole were referred as usual.

On motion of Mr. LIVINGSTON, the petition presented some days ago from a number of alien Irishmen against the alien bill, was also referred—44 to 35.

### ***Alien and Sedition Laws.***

On motion of Mr. GOODRICH, the House went into a Committee of the Whole on the report of a select committee, on the petitions praying for a repeal of the alien and sedition laws; which was read by the Chairman, as follows:

The committee to whom was referred the memorials of sundry inhabitants of the counties of Suffolk and Queen, in the State of New York; of Essex County, in New Jersey; of the counties of Philadelphia, York, Northampton, Mifflin, Dauphin, Washington, and Cumberland, in Pennsylvania; and of the county of Amelia, in Virginia; complaining of the act, entitled "An act concerning aliens," and other late acts of Congress, submit the following report:

[The report was a condensation of the arguments used in support of the two bills by the members who supported them, and was accompanied by three resolutions, offered for the adoption of the House.]

Impressed with these sentiments, the committee beg leave to report the following resolutions:

*Resolved*, That it is inexpedient to repeal the act passed the last session, entitled "An act concerning aliens"

*Resolved*, That it is inexpedient to repeal the act passed the last session, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States.'"

*Resolved*, That it is inexpedient to repeal any of the laws respecting the Navy, Military Establishment, or revenue of the United States.

The question being upon agreeing to the first resolution declaring it to be inexpedient to repeal the alien law,

Mr. GALLATIN rose and spoke as follows:

Mr. Chairman: This subject was so fully discussed during the last session, that I would not have addressed the committee on this occasion, did I not entertain some hope that the change of circumstances which has taken place since the laws were enacted, and above all, the sense which so many of our fellow-citizens have expressed on their propriety and constitutionality, may induce the House to reconsider their decision of last year.

Petitions, signed by near 18,000 freemen of this State alone, collected in a few counties and within a few weeks, have been laid on your table, earnestly requesting Congress to repeal laws, at best of a doubtful nature, and passed under an impression of danger which does not now seem to exist, of general alarm, which has nearly subsided.

Sixteen hundred of my immediate constituents have joined in these petitions, and their opinion on this subject being the same which I have uniformly entertained, I feel it forcibly to be my duty to examine the reasoning used by the select committee who have reported against the repeal of the obnoxious laws.

The act concerning aliens comes first under consideration. Two laws were passed during the last session of Congress on that subject, the one concerning aliens generally, and the other respecting alien enemies. No petition has been presented against the last, and it would remain in force even if the first should, agreeably to the request of the petitioners, be repealed. The petitions apply solely to those provisions of the first act which are not included in the last. The provision, therefore, complained of, and which is the subject-matter of the reference to the committee, is that which authorizes the President to remove out of the territory of the United States, "all such aliens, (being natives, citizens, denizens, or subjects of a nation which is *not* at war with the United States, and which has *not* perpetrated, attempted, or threatened any invasion or predatory incursion against the territory of the United States,) as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to *suspect* are concerned in any treasonable or secret machinations against the Government thereof."

This authorization is considered by the petitioners as unconstitutional—1st, because such power being neither among the specific powers granted by the constitution of the General Government, nor necessary to carry into effect any of those specific powers, is, both by incontestable deduction, and by the 12th amendment, reserved to the individual States; 2d, because, even supposing such power to be by implication comprehended among those granted to the General Government, its exercise is, for the present, expressly prohibited to that Government by the section which provides that the migration or importation of such persons as any of the States shall think proper to admit shall not be prohibited by Congress prior to the year 1808; and 3dly, because aliens are supposed to come under the general description of persons to whom, by the constitution, the right of a trial of all crimes by jury is secured.

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In answer to the first objection, it is not contended that the power of removing such aliens is specifically granted by the constitution. But it is insisted, first, that every nation has a power at will to admit, or to remove aliens; second, that this power is necessary and proper in order to carry into effect the specific powers vested in Congress to declare war and to protect each State from invasion.

To admit the first position in its full extent does not destroy the force of the objection; for that objection rests not on a supposition that the power of removing aliens does not exist in the nation; but on the principle that it is not one of those granted by the nation to the General Government; that it is one of those intrusted by the nation to the Governments of the individual States respectively. The second position is predicated on a construction of the clause of the constitution and an application of that construction to the act, which to me appear inadmissible. The expressions used in that clause are "necessary and proper." The idea conveyed by the word "proper" is implied in that of the word "necessary," for whatever is necessary must be proper. The addition of the word "proper" was therefore useless, unless designed more precisely to ascertain the meaning of the word "necessary," the better to prevent a construction "that by necessity nothing more was meant than propriety," and to establish, beyond contradiction, that whatever might by Congress be thought proper, was not on that account to be judged necessary. Hence the meaning of the word "necessary" is confined in that clause to its strict sense, to wit: the power of passing laws without which some of the powers delegated to Congress could not be carried into effect.

In the present case it cannot be said that a power generally to remove aliens, not belonging to a nation from which a war or invasion is apprehended, is necessary or even proper in order to protect the States against such a war or invasion. Aliens individually may commit acts tending to

assist the enemy, and, in such case, it would become necessary to punish them. Should a body of armed aliens (the supposed case of the select committee) land with views evidently hostile, to whatever nation they might belong, the act itself would be an invasion, and the necessity of repelling, or if another expression is selected, of removing them, would be self-evident and immediately flowing from the specific power delegated to Congress to protect the States against invasions. But it is preposterous to say that the necessity of a general removal of alien friends flows from the apprehension of an invasion. The law concerning aliens, however, does not designate the acts which shall establish the necessity of their removal individually. Although they may not have been concerned in any machinations against Government; although the machinations in which they may have been concerned shall not have tended to promote or assist an invasion; and although their machinations might be sufficiently prevented and punished in the common course of law; although, therefore, their removal may not be necessary to protect the States against an invasion; yet, by the present law, they are liable to be removed, if they shall be suspected of being concerned in those machinations. Their having actually and individually committed certain acts is requisite to constitute that necessity which alone can justify the exercise of the power delegated by this law. And yet that removal, which, in order to be constitutional, should rest on its necessity, depends, by the provisions of this law, on the bare suspicion of a necessity. But necessity implies proof, and cannot rest on suspicion. The law cannot be supported by the constitution unless that instrument had declared that Congress shall have power to pass laws which they may suspect to be proper or necessary in order to carry into effect certain specific powers delegated to them.

But the law does not even confine its operation to cases when a war or invasion should be apprehended. Supposing the alarms on that subject to be completely at an end, still the power remains with the PRESIDENT to remove aliens suspected by him to be concerned in secret machinations against Government. The power delegated by this law is not applicable exclusively to cases where it may be thought necessary in order to carry into effect the power to protect States against an invasion. It is to apply generally and under color of its necessity for executing certain specific powers, it may be exercised in a case where that specific power, on which alone it rests, has itself, nothing on which to operate. Although it may happen that there shall be no necessity to protect States against invasion, it will even then, according to this constructive doctrine, still be lawful to do an act which cannot be constitutional, except on account of its being necessary to protect States against invasion.

In order, therefore, to support the constitutionality of the law, the select committee must suppose, in the first place, that Congress may pass laws, without a certainty of their being necessary for carrying into execution some of the specific powers granted to them; that is to say, that Congress have a right to pass laws which may be unnecessary for that purpose. In the next place, that if a certain law is necessary only for executing a constitutional measure of a temporary nature, that law may constitutionally be executed, although the temporary measure itself should not be executed at all; that is to say, that the incidental power may be exercised for a purpose different than that of executing the original power on which it rests.

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The application of that constructive doctrine to the sedition and alien laws justifies a conclusion that, if adopted, it will substitute in that clause of the constitution a supposed usefulness or propriety to the necessity expressed and contemplated by the instrument, and will, in fact, destroy every limitation of the powers of Congress. It will follow that instead of being bound by any positive rule laid down by their charter, the discretion of Congress, a discretion to be governed by suspicions, alarms, popular clamor, private ambition, and by the views of fluctuating factions, will justify any measure they may please to adopt; that, instead of being bound by a constitution, they may claim the omnipotence of a British Parliament; that all the reserved powers of the people or of the States will be swallowed up at their pleasure by that undefined discretion; in a word, that the constitution itself, so far as respects a limitation of powers, is by that doctrine completely annihilated. Even the positive checks, which, in a few instances, prohibit the exercise of certain powers, will not prove a sufficient guard against an inordinate appetite to legislate on some favorite subject.

Thus, in the case of the sedition law, the prohibitory clause, respecting an abridgment of the liberty of the press, is attempted to be construed away by star-chamber definitions, by exotic doctrines, which, if suffered to flourish, will overshadow and smother every plant of American growth; doctrines incompatible with the principles of a Government elective in all its Executive and Legislative branches; of a Government which the people, the sole fountain of power, cannot properly carry into execution, if the sources of information are shut up from them; if a free and full discussion of every public measure is at the will of those who enjoy only a delegated authority, checked and embarrassed by prosecutions for libels, grounded solely on the British system of hereditary prerogative.

And thus, in the case of the alien law, it is said that the temporary prohibition enjoined on Congress, to forbid the importation of persons, must be understood as applying only to slaves; and that a power to remove emigrants may be constitutionally exercised, though that of prohibiting their migration should be unconstitutional.

The evidence of members of the Convention which framed the constitution, has sometimes been offered to prove that that body by *persons*, meant *slaves*. But the evidence of those members cannot prove any thing beyond their own individual intention, or, at most, their belief of what might have been the intention of some other members. Nor is, on any possible supposition, the intention of the Convention itself of any importance to decide the true meaning of the constitution. For they were not the legislators who passed and ratified the act, but only the

framers who drew the instrument and offered it for consideration. As well might the Judges of the Supreme Court be induced in their decision on a point of law, to abandon the clear construction pointed out by the precise meaning of the words of the statute, on account of the supposed opinion of some one of the members of the committee of this House that had drafted the law, as we be guided by what was, at the time, the meaning of some of the gentlemen who drew the constitution. After a lapse of ten years, it is preposterous to receive parole evidence against a sacred record. Are the people of America to be told, after a lapse of ten years, that the delegation of powers, which they sanctioned under the impression of what on its face appeared to be its meaning, is to receive a contrary construction, bottomed on private meaning, on the unknown opinion of the members of a body whose deliberations were secret? And if, even through mistake, those individuals adopted expressions which conveyed a different meaning from what they intended, is that supposed intention to prevail over the explicit sense of those expressions?

But we are told by the select committee, that "there could not have been the least reason" for confining the restriction to the then existing States, and to a period of twenty years, had the restriction "been intended" to apply to all emigrants in general. Here again, a supposed intention is brought as an argument against the general acceptance of the word "persons." The question is not, whether we are at a loss to find the reasons which dictated a modification of the restriction. Yet, if we were to recur to suppositions, we might as well suppose that the then existing States, which alone formed the constitution, felt interested only for themselves, and not for future non-existing States; and that those States, who were interested in promoting the migration of free persons, were satisfied with the same regulation which satisfied those States who were apprehensive of an interference in the importation of slaves. But the only question is, whether modification is contradictory with the common acceptance of the word "persons," which, it will not be denied, in its natural sense, will apply to free as well as to the other description of individuals? Whether there is any thing absurd or repugnant to common sense, in saying that Congress shall not, for twenty years, prohibit the migration of free persons in the existing States? If there be nothing inconsistent in that provision, the modification of the restriction cannot modify and alter the meaning of the word "persons."

Was there any possibility of doubt on the sense of that word, it might be explained by other parts of the constitution and by other expressions in the clause itself.

The 2d section of the 1st article of the constitution, speaking of the mode of ascertaining the respective numbers of the several States, declares that they shall be determined by adding to "the whole number of free persons" (including those bound to service for a term of years, and excluding Indians not taxed) "three-fifths of all other persons." A sentence in which the word *persons* is expressly applied first to freemen, and secondly to slaves.

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The prohibitory clause itself declares that the migration or importation of such persons as any of the States, &c., shall not be prohibited. The word "migration," as contradistinguished from "importation," clearly implies the free will of the person, and applies exclusively to free persons.

The select committee have also informed us that the power to send off emigrants, who abuse the indulgence granted them to remain, is a very different thing from the power of preventing emigration; meaning, I suppose, that although Congress might be forbidden by the constitution to prohibit migration, they may constitutionally send off such emigrants. Was the power claimed by this law, that of punishing by transportation aliens convicted of certain offences, defined by the law, although the constitutional necessity of the mode of punishment would still remain to be proven, yet the argument of the committee would deserve some consideration. But it is denied that there is the least difference between a power of prohibiting emigration and that of sending off any alien at the will of the PRESIDENT, merely because he is suspected by that Magistrate. The transportation of the emigrant does not rest on any act committed by him, but on the degree of suspicion entertained by the PRESIDENT. The removal, therefore, contemplated by the law, is not the special removal of certain emigrants, but a general power to remove all the emigrants, on suspicion, if the PRESIDENT shall please. I must confess that, to my understanding, that power to remove all emigrants would, if exercised, (and the law authorizes its general exercise,) amount precisely to the same thing with a general prohibition of emigration.

So far is it true that the clause of the constitution admits of a construction which would defeat its object; that, at the end of it, we find a provision permitting Congress to lay a duty of ten dollars, not on migration, but on the importation of persons. Had it not been for that provision, Congress could not even have checked that importation by any duty. As the clause now stands, they cannot check the migration by any duty whatever, nor the importation by a duty higher than ten dollars. And yet it is contended that notwithstanding so much caution, Congress may, by a general power of sending off emigrants, evade the restriction laid upon them, and altogether prevent the effect of migration.

Finally, if there be any difference between the power of prohibiting migration and that of sending off emigrants, it consists in this, that it might have been apprehended that, under color of the general power over commerce given to Congress, they might, by duties or other commercial regulations, have prevented or checked migration; but that there does not exist any power granted to the General Government by the constitution which can rationally serve as a pretence to claim an authority to remove emigrants generally. And the only deduction to be thence inferred is, that the clause now under consideration, although it might be proper for preventing the exercise of the first power, was unnecessary for the last purpose—a conclusion to which I agree in its full extent, and which it seems to me I have already fully established in the first part of my arguments.



The select committee (driven thereto, perhaps, by the weakness of the ground they were compelled to defend) have recurred to a last argument, the most extraordinary, perhaps, of any they have advanced. Having said, in the former part of their report, that every nation had a right to send off aliens at will, they afterwards assert that, "as the constitution has given to the States no power to remove aliens," it is necessary to conclude that the power devolves to the General Government.

It is, I believe, the first time it has been suggested that the powers of the individual States were derived from the Constitution of the United States. That constitution has heretofore been considered as a delegation of powers to the General Government, and not to the several States. But the assertion of the committee may be shortly answered by reading the twelfth amendment to the constitution, viz: "The powers *not delegated* to the United States by the constitution, *nor prohibited* by it to the States, are *reserved* to the States, respectively, or to the people." In order to prove that the powers are not reserved to the States, it is necessary to prove that they are delegated to Congress; and the committee, with that kind of logic which pervades the whole of their report, in order to prove that powers are delegated to Congress, assume the position that they do not belong to the States. The constitution declares that the powers not prohibited to the States are reserved to them, and the committee asserts that the powers not given to the States, are not reserved to them. It would seem, as the committee had been desirous of justifying, by their own arguments, what I have advanced, that the doctrine necessary to support the constitutionality of this law would infallibly swallow up all the powers of the several States.

That the States had a right to legislate on this subject never was denied. It is a fact, that some of them have legislated upon it. Virginia has passed an alien law, which has been quoted by the supporters of the law of Congress. It was strange enough, that on a constitutional question, whether the United States or the several States had a right to pass such laws, the advocates for the right of Congress should quote a law of one of the States, which proved the very reverse of their doctrine. But their object was to puzzle and confound, and not to enlighten the understanding; and if they meant to rescue the law of Congress from the charge of impropriety and injustice, by the instance of that of Virginia, they have been guilty of a gross misrepresentation; for the act of that State, so far from being similar to that complained of, is not a law concerning alien friends, but a law respecting alien enemies, perfectly similar to that of Congress, of which no one complains, and which passed without opposition.

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To the argument against the law, drawn from that part of the constitution which secures the trial of all crimes by jury, the most satisfactory answer given by the committee is, that aliens not being parties to the constitution, have no rights under it. Without entering into an examination of the constitutional question arising on that point, I will only remark, that the construction is harsh; and that, to transport emigrants, "merely from motives of policy," and "without their having committed any offence," is often unjust—always oppressive and cruel. The manner in which aliens have been invited to this country, and the peculiar situation in which they stand, justify the assertion.

The constitution gives to Congress no power over aliens, except that of naturalization. The power, therefore, remains with the States to give to aliens the rights of denizens. That power has not been exercised by that name; but it has, in fact, been carried into effect. Not only in some States have aliens been enabled to purchase, to hold, to inherit, and to leave by will, real estate—a right which principally constitutes a denizen—but many have actually been admitted in some States, either by special acts of the Legislature, or in conformity to former general laws, to all the rights of citizens of those States, so far as it was in the power of individual States to do it; that is to say, that they have received every right, but such as arise from naturalization—every right of denizens. On the other hand, the laws of the Union have invited emigration, by holding out the prospect of being naturalized at the end of a period which, till nearly the time when the alien law passed, never exceeded five years. Under these laws, emigrants have, by a formal declaration before our courts, given evidence of their intention of becoming citizens and of renouncing their former allegiance—a declaration almost tantamount to an actual renunciation. They have abandoned their native countries for ever; many of them have acquired lands, and married in America; most of them have here the whole of their property, or their only means of subsistence. Under all these circumstances, it may be doubtful whether a great proportion of these aliens are not entitled to the rights of denizens; and if they are not so, by a strict construction of positive laws, at least, it can hardly be denied that the provisions of the law violate, in this respect, the dictates of humanity and justice.

The policy of this measure seems to be defended by the select committee on the same ground which is to be a pretence and a justification for every act of domestic oppression, for every encroachment of power, for every new tax, for every extravagant loan, for every prodigal act of expenditure, for every increase of the navy, for every standing army which may be raised under the various names of permanent army, additional army, provisional army, eventual army, or *well-affected* volunteers. The alien and sedition acts form, in the opinion of the committee, an essential part of our general system of defence against France. I do not mean to follow them, whilst they use, instead of arguments, the mere cant of the day. They cannot be serious when they tell us of the employment of the active talents of a numerous body of French citizens here as emissaries and spies. And if they are, does that committee mean to impose upon this House, as upon the people of some parts of the Union? Do we not know that, if there be any danger from France, the act respecting alien enemies is applicable to her citizens, and that the law now complained of respects alien friends, and was originally intended to operate, not against subjects of France, but against *Irish* emigrants and other subjects of Great Britain? Do we not know that,

notwithstanding all the clamor of last summer, and notwithstanding the two laws passed on that subject, not a single French citizen has been removed?

Still less can I suppose that the committee were in earnest when they pretended to believe that the United States offered as easy and alluring a conquest to France as Egypt. They seem to have forgotten that Egypt was governed and defended by Mamelukes and inhabited by slaves; that the United States are *as yet* inhabited and defended by the people themselves. But if the committee thought that the fear of an invasion did justify those laws, when passed, will they pretend to say that the danger, even in their opinion, now exists, and that the same necessity now justifies the continuance of the laws?

It is not only against invasion that those laws are said to be necessary. We are told of a system which convulses the civilized world, and has shaken the fabric of society; of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law, and Government. If these are the dangers which threaten us, and if Congress think themselves vested with all the powers which they may think expedient to repel them, I wish to know to what extent they may not legislate, and by what possible limitation they can be restrained, in their assumption of powers? There is not an individual on this floor, there is not a man of common understanding and common information in the nation, who, unless he is under the influence of the illusions of the new anti-republican fanaticism, or blinded by party spirit, does not know that these pretended dangers are, in America, the visionary phantoms of a disordered imagination. And I have taken notice of those sentiments merely to give an additional proof, that under pretence of preventing imaginary evils, an attempt is made to establish the omnipotence of Congress, and substantial despotism, on the ruins of our constitution.

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Is that a measure of security and general defence which puts a numerous body of aliens—aliens who are represented as so desperate and dangerous—under the absolute control of one man, which, by holding the rod of terror over their heads, and leaving their fate at his sole disposal, renders them complete slaves of the PRESIDENT, and makes them proper instruments for the execution of every project which ambition may suggest, which faction may dictate? Is that a Government of laws which leaves us no security but in the confidence we have in the moderation and patriotism of one man? And do the abettors of these laws forget that even that is precarious, and that the unlimited power which they think safely lodged in one individual may in a day be vested in another man in whom they do not place the same confidence?

Is that a measure of general defence which has diminished confidence in the Government and produced disunion among the States and among the people?

Yet I am happy to find that even this law has produced such general dissatisfaction. I was the more alarmed on account of this law, because, attacking only aliens, for whom no immediate concern could be felt, it might the more easily become the vehicle to introduce doctrines and innovations which would hereafter serve as a precedent to attack the liberties of the citizens themselves. A pretence of general defence may justify oppressive measures against citizens as well as against aliens. Although some nice distinctions may now be made in order to discriminate one class from the other, yet it must be remembered that the only security of citizens against unconstitutional measures consists in a strict adherence to the constitution; that their liberties are only protected by a *parchment*—by *words*—and that they may be destroyed whenever it shall be admitted that the strict and common sense of words may be construed away under the plea of some supposed necessity; whenever the constitution shall be understood and exercised as an instrument unlimited where it grants power, and nugatory where it limits power.

We may feel alarmed when we see a committee of this House asserting that the powers not given to the States (and it may be added, by the same rule of construction, the powers not given to the people by the constitution) belong to the General Government. We may feel alarmed when that committee insist that, although it is true that the trial of all crimes must be by jury, yet, to inflict a punishment when no offence—no crime—has been committed, is not a violation of the constitution; when the only distinction they apply to citizens consists in the difference of punishment, but not in a difference of the principle. We may feel alarmed when we find that Congress have already acted on those principles towards citizens; that they have already passed another law—the sedition law—grounded on the same principles, on the same doctrine, or rather on the same abandonment of the explicit and evident sense of the constitution, which alone could justify the alien law. I hope—I trust—that the spirit which dictated both laws has subsided, even within these walls, and that the same Congress who, under the impressions of a momentary alarm, which prevented a cool investigation, hastily adopted those two measures, will have courage enough to revise their own conduct, to acknowledge their own errors, and, by a repeal of the obnoxious acts, restore general confidence, union, and harmony, amongst the States and the people.

When Mr. GALLATIN had concluded, the question was taken and carried—yeas 52, nays 48.

The 2d resolution being next in order, viz:

*Resolved*, That it is inexpedient to repeal the act passed the last session, entitled "An act in addition to the act, entitled An act for the punishment of certain crimes against the United States:"

Mr. NICHOLAS rose and spoke as follows:

Mr. Chairman—I am sorry to be obliged to rise at this late hour of the day, indisposed also as I find myself, to speak on this important question; but, since gentlemen are determined now to decide upon it, I must be indulged in making some observations upon it, previous to the question

being taken.

The select committee had very truly stated, that only the second and third sections of the act, in addition to the act for the punishment of certain crimes against the United States, are complained of—that the part of the law which punishes seditious acts is acquiesced in, and that the part that goes to restrain what are called seditious writings, is alone the object of the petitions.

This part of the law is complained of as being unwarranted by the constitution, and destructive of the first principles of Republican Government. It is always justifiable, in examining the principle of a law, to inquire what other laws can be passed with equal reason, and to impute to it all the mischiefs for which it may be used as a precedent. In this case, little inquiry is left for us to make, the arguments in favor of the law carrying us immediately, and by inevitable consequence, to absolute power over the press. The case chosen for our first legislation, that of "false, scandalous, and malicious writings," is specious, and as likely as any can be to establish an interest in its favor; but when it is fairly examined, it will be found to operate on cases, which could not, at first view, be expected to come under it; to be the instrument of most unjust oppression, and to restrain that free communication of honest opinion which is the soul of the Government. But when you come to inquire further, and learn, from the advocates of the law, the authority which they claim for passing it, you will find that the power claimed does not stop even with this law, mischievous as it may be, but that it extends to absolute and unlimited control.

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It is not pretended that the constitution has given any *express* authority which they claim for passing this law, and it is claimed only as implied in that clause of the constitution which says, "Congress shall have power 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." It is, therefore, necessary to fix a just construction of this clause.

That the powers of the Federal Government were intended to be limited, is universally admitted, in the abstract; is proved by every clause of the constitution, and is positively declared by the 12th amendment in these words: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The just construction of the constitution, if the clause respecting necessary and proper powers had been omitted, would have been the same that it ought to be with the addition; for there can be no doubt, that a grant of specified powers would have contained a grant of such power as is necessary to carry the specified power into effect, and therefore the declaration ought to make no difference, according to a well-known maxim. This was the understanding of all the friends of the constitution at its adoption, and the constitution ought now to be construed as if the clause had been omitted. But it is proper to examine the meaning of it, as expressed.

It is clear, that this clause was intended to be merely an auxiliary to the powers specially enumerated in the constitution; and it must, therefore, be so construed as to aid them, and at the same time to leave the boundaries between the General Government and the State Governments untouched. The argument by which the select committee have endeavored to establish the authority of Congress over the press, is the following: "Congress have power to punish seditious combinations to resist the laws, and therefore Congress must have the power to punish false, scandalous and malicious writings; because such writings render the Administration odious and contemptible among the people, and, by doing so, have a tendency to produce opposition to the laws."

It is expressly admitted by the committee, that the power to punish seditious combinations to resist the laws, is only derived, by construction, from the clause giving all necessary and proper powers before recited; and that there is no express power in the constitution to that effect. There is no dispute about this construction being just; but I contend that the inference from this implied power cannot be supported, viz: That Congress have a power to punish seditious writings.

The constitution says: "Congress shall have power over all acts which hinder the execution," &c.; but, to make it support the construction of the committee, it should say that, "Congress shall have power over all acts which are likely to produce acts which hinder the execution," &c. Our construction confines the power of Congress to such acts as immediately interfere with the execution of the enumerated powers of Congress; because the power can only be necessary as well as proper, when the acts really would hinder the execution. The construction of the committee extends the power of Congress to all acts which have a relation, ever so many degrees removed, to the enumerated powers, or rather to the acts which would hinder their execution. By our construction, the constitution remains defined and limited, according to the plain intent and meaning of the framers; by the construction of the committee, all limitation is lost, and it may be extended over the different actions of life as speculative politicians may think fit.

The suggestion on which the authority over the press is founded, is, that seditious writings have a tendency to produce opposition to Government. What has a greater tendency to fit men for insurrection and resistance to Government, than dissolute, immoral habits, at once destroying love of order, and dissipating the fortune which gives an interest in society?

The doctrine that Congress can punish any act which has a tendency to hinder the execution of the laws, as well as acts which do hinder it, will, therefore, clearly entitle them to assume a general guardianship over the morals of the people of the United States.

Again: nothing can have a greater tendency to ensure obedience to law, and nothing can be more

likely to check every propensity to resistance to Government, than virtuous and wise education; therefore Congress must have power to subject all the youth of the United States to a certain system of education. It would be very easy to connect every sort of authority used by any government with the well-being of the General Government, and with as much reason as the committee had for their opinion to assign the power to Congress, although the consequence must be the prostration of the State Governments.

But enough has been said to show the necessity of adhering to the common meaning of the word "necessary," in the clause under consideration, which is, that the power to be assumed must be one without which some one of the enumerated powers cannot exist or be maintained. It cannot escape notice, however, that the doctrine contended for, that the Administration must be protected against writings which are likely to bring it into contempt, as tending to opposition, will apply with more force to truth than falsehood. It cannot be denied that the discovery of maladministration will bring more lasting discredit on the government of a country, than the same charges would if untrue.

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This is not an alarm founded merely on construction; for the governments which have exercised control over the press, have carried it the whole length. This is notoriously the law of England, from whence this system has been drawn; for there, truth and falsehood are alike subject to punishment, if the publication brings contempt on the officers of government.

I have shown, as I promised, that the authority on which this act is supported, gives unlimited power over the press, as to its investigation of public affairs, which is its most important function; and I will now endeavor to show, that the effect of the present law is very little short of the complete restraint of all useful discussion on public men and measures.

The law has been current by the fair pretence of punishing nothing but falsehood, and by holding out to the accused the liberty of proving the truth of the writing; but, it was from the first apprehended, and it seems now to have been adjudged, (the doctrine has certainly been asserted on this floor,) that matters of opinion, arising on notorious facts, come under the law. If this is the case, where is the advantage of the law requiring that the writing should be false, before a man shall be liable to punishment, or of his having the liberty of proving the truth of his writing? Of the truth of facts there is an almost certain test; the belief of honest men is certain enough to entitle it to great confidence; but their opinions have no certainty at all. The trial of the truth of opinions, in the best state of society, would be altogether precarious; and, perhaps, a jury of twelve men could never be found to agree in any one opinion. At the present moment, when, unfortunately, opinion is almost entirely governed by prejudice and passion, it may be more decided, but nobody will say it is more respectable; chance must determine whether political opinions are true or false, and it will not unfrequently happen, that a man will be punished for publishing opinions which are sincerely his, and which are of a nature to be extremely interesting to the public, merely because accident, or design, has collected a jury of different sentiments.

If the effect of the present law is to restrain the free communication of opinion, and its principle will justify any control Government chooses to exercise over the press, an inquiry may safely be entered on, whether Congress ought to possess the power, even if the clause giving necessary and proper power would extend to such remote cases? It is the more necessary to inquire into the usefulness of this power in the hands of Congress, since the opinion is becoming current, that that alone will give Congress a right to assume it, upon the principle that Government must have a right to do every thing proper for its safety. This doctrine may be very fallacious, if not taken in the restricted sense to be found in the clause giving necessary powers. No government can assume a power not delegated, on pretence of its being necessary; for none have a right to judge of what is necessary but the makers of the constitution, otherwise all governments would be competent to make every alteration in a constitution they might think proper, and the constitution would rank with the laws, and not above them. For the execution of powers expressly given, there must have been some latitude allowed to those who were to execute them, the same in fact which is expressed in the clause respecting necessary powers.

Is the power claimed proper for Congress to possess? It is believed not, and will readily be admitted, if it can be proved, as I think it can, that the persons who administer the Government have an interest in the power to be confided, opposed to that of the community. It must be agreed that the nature of our Government makes a diffusion of knowledge of public affairs necessary and proper, and that the people have no mode of obtaining it but through the press. The necessity for their having this information, results from its being their duty to elect all the parts of the Government, and, in this way, to sit in judgment over the conduct of those who have been heretofore employed. The most important and necessary information for the people to receive is, of the misconduct of the Government; because their good deeds, although they will produce affection and gratitude to public officers, will only confirm the existing confidence, and will, therefore, make no change in the conduct of the people. The question, then, whether the Government ought to have control over the persons who alone can give information throughout a country, is nothing more than this, whether men interested in suppressing information necessary for the people to have, ought to be intrusted with the power, or whether they ought to have a power which their personal interest leads to the abuse of? I am sure no candid man will hesitate about the answer; and it may also safely be left with ingenuous men to say whether the misconduct which we sometimes see in the press, had not better be borne with, than to run the risk of confiding the power of correction to men who will be constantly urged by their own feelings to destroy its usefulness.

The mode of thinking which countenances this law, and the doctrines on which it is built, are derived from a country whose government is so different from ours, that the situation of public

officers ought to be very different. In Great Britain, the King is hereditary, and, according to the theory of their government, can do no wrong. Public officers are his representatives, and derive some portion of his inviolability from theory, but more from the practice of the government, which has, for the most part, been very arbitrary. It was, therefore, of course, that they should receive a different sort of respect from that which is proper in our Government, where the officers of government are the servants of the people, are amenable to them, and liable to be turned out of office at periodical elections. In Great Britain, writings are seditious, though they are true, if they tend to bring a public officer into contempt.

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In this country, it is seen that the same principle is contended for, and that in practice, with respect to matters of opinion, we have gone the whole length of the principle. How long can we expect to maintain the other distinctive qualities of the magistracy of the two countries, when this sameness is established? How long can it be desirable to have periodical elections, for the purpose of judging of the conduct of our rulers, when the channels of information may be choked at their will?

But, sir, I have ever believed this question as settled by an amendment to the constitution, proposed with others, for declaring and restricting its powers, as the preamble declares, at the request of several of the States, made at the adoption of the constitution, in order to prevent their misconstruction and abuse. This amendment is in the following words: "Congress shall 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 the right of the people peaceably to assemble and petition the Government for a redress of grievances." There can be no doubt about the effect of this amendment, unless the "freedom of the press" means something very different from what it seems; or unless there was some actual restraint upon it, under the Constitution of the United States, at the time of the adoption of this amendment, commensurate with that imposed by this law. Both are asserted, viz: that the "freedom of the press" has a defined, limited meaning, and that the restraints of the common law were in force under the United States, and are greater than those of the act of Congress; and that, therefore, either way the "freedom of the press" is not abridged.

It is asserted by the select committee, and by every body who has gone before them in this discussion, that the "freedom of the press," according to the universally received acceptation of the expression, means only an exemption from all previous restraints on publication, but not to an exemption from any punishment Government pleases to inflict for what is published. This definition does not at all distinguish between publications of different sorts, but leaves all to the regulation of the law, only forbidding Government to interfere until the publication is really made. The definition, if true, so reduces the effect of the amendment, that the power of Congress is left unlimited over the productions of the press, and they are merely deprived of one mode of restraint.

The amendment was certainly intended to produce some limitation to legislative discretion, and it must be construed so as to produce such an effect, if it is possible. This is required in the construction of all solemn acts, but must be more particularly due to this on account of the various examinations it underwent, previous to its adoption. It was first recommended by the conventions of several States, was adopted by two-thirds of both Houses of Congress, and finally ratified by three-fourths of the State Legislatures. To give it such a construction as will bring it to a mere nullity, would violate the strongest injunctions of common sense and decorum; and yet that appears to me to be the effect of the construction adopted by the committee. If subsequent punishments are sufficient to deter printers from publishing any thing which is prohibited, there is no stint to the power of Congress; and yet, it appears to me that a limitation was clearly intended. I cannot doubt the power of Government to bend printers to their will by subsequent punishments, when all other offences are restrained only in this way. Government does not punish men for keeping instruments with which they can commit murder, but contents itself with punishing murder when committed. The effect of the amendment, says the committee, is to prevent Government taking the press from its owner; but how is their power lessened by this, when they may take the printer from his press and imprison him for any length of time, for publishing what they choose to prohibit, although it may be ever so proper for public information? The result is, that Government may forbid any species of writing, true as well as false, to be published; may inflict the heaviest punishments they can devise for disobedience; and yet we are very gravely assured that this is "the freedom of the press."

But it is worth while to trace this definition to the place from whence it is taken, and inquire into the circumstances in which it is used. Blackstone, in his Commentaries on the Laws of England, after stating the law respecting libels, which is, that every thing which brings a magistrate into contempt is punishable, whether true or false, goes on to say, that this law is not inconsistent with the liberty of the press; and then gives a definition of the liberty of the press in the manner it is used by the committee. The meaning of all Blackstone has said is this, that the press has the proper degree of liberty in England, and that libels, whether true or false, ought to be punished there. Let us apply what he has called a definition, in the way he used it, to the legislation of the United States. Suppose the present question was, whether we should punish truth, as well as falsehood, in libels, would gentlemen venture to tell us that it was consistent with the freedom of the press, or that the degree of freedom proper for the United States would remain? I venture to say they would not. Ought they, then, to support the doctrine which hereafter may be practised on to the full extent? Is there not reason to believe gentlemen hope to conceal the full extent of their principles, by bringing them into operation only by degrees? But, sir, it is a manifest abuse of Blackstone's authority to apply it as it has been here applied. He had advanced into the fourth

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volume of a panegyric on the laws of England, and after stating the law on this subject, makes a theory to justify the actual state of the law. It must be remarked, in his justification, that the nature of their government justifies more rigor than is consistent with ours, and that the existing law, of which he was writing the praise, had been greatly softened in practice, by public opinion. In this case, there was no danger of impairing the security to liberty, intended by the constitution; for England has no constitution but what may be altered by the Parliament, and therefore no great precision was necessary with respect to general principles. Indeed, his observations on this subject ought to be called a theory, and a theory adapted merely to his own country, and not a definition. Very different are the circumstances in which his doctrine has been applied here. A restrictive clause of the Constitution of the United States, by its application, is made to mean nothing, and when it is clearly the intention of the constitution to put, at least, some acts of the press out of the control of Congress, by the authority of this writer, all are subjected to their power.

But it is said, that the States have all adopted the same construction which is given to freedom of the press by the committee, for that all the State constitutions provide for it, and yet the law of libels remains part of their codes. If this is fact, about which however I am uninformed, it is easily to be accounted for. At the Revolution, the State laws were either the law of England, or were built on it, and, of course, they would contain the monarchical doctrine respecting libels. When the State constitutions were formed, the old law was continued in force indiscriminately, and only a general exception made of what should be found inconsistent with the State constitutions. Now, to prove that the States have considered the law of libels consistent with the freedom of the press, gentlemen should show that this law has been practised on since the Revolution, and that the attention of the States had been called to it by its execution, and that it still remains in force. I believe this cannot be done. So far as I know, it has been a dead letter. I mean the law of libels against magistrates, and if so, the argument is reversed, and is wholly on my side. The terms of this law furnish one of the best proofs of the truth of my opinion; for the framers of it, wound up as they have been, in their notions about Government, since the adoption of the State Governments, endeavored to take a middle course between real liberty and the State law, which is supposed to continue in force, and have studiously endeavored to conceal that their doctrine leads to the same thing by constantly pretending that their law is to punish only falsehood. This is a plain admission, that even now, public opinion would not support what they pretend is the law of each State. But from the argument before urged, I think it must be admitted, that if the States had so understood it, the construction could not be extended to this amendment. No solemn instrument can be construed so as to destroy it. I have seen somewhere, and I beg leave here to remark on it, the authority of the Convention who formed the constitution of Virginia, quoted to justify this construction. That Convention is said to have passed a law similar to the law of Congress, after having provided for the liberty of the press in their bill of rights. Let us examine that law. The first section is to punish those who shall "by any word, open deed, or act, advisedly and willingly maintain or defend the authority, jurisdiction, or power of the King, or Parliament of Great Britain, heretofore claimed over this Colony, or shall attribute any such authority," &c. This section, passed at the beginning of the most awful contest in which ever man was engaged, a contest for the right of self-government against one of the most powerful nations in the world, was to establish what? Not the inviolability of the Governor of the State, nor of the majority of either House of the Legislature, but to punish men who should promote resistance to the right of the people to govern themselves, to the principle of the constitution, to the republican principle. So different is this from the object of the law of Congress, that it would have been impossible to believe that they should have been compared, if we had not seen it done. All argument must be thrown away on gentlemen who do not feel the difference between the respect due to the constitution, to the right of self-government in the people, and that which is due to the organs of administration, who cannot only deserve contempt, but who are to be removed with disgrace, according to the constitution itself, when they misbehave. By the second section of this law, those were to be punished "who should maliciously and advisedly endeavor to excite the people to resist the Government of the colony, or persuade them to return to a dependence on the Crown of Great Britain, or maliciously and advisedly to excite or raise tumults and disorders in the State, or maliciously and advisedly terrify and discourage the people from enlisting in the service of the Commonwealth, or dispose them to favor the enemy." The design of this section is apparently the same with the former. Every act of ill-will to the existing Government, is immediately followed by one tending to submission to Great Britain. These acts are, however, out of the question, for they belong to the class enumerated in the first section of the sedition law, which nobody wishes to repeal, as the committee declare. But if the law had any analogy to the law of Congress, it would be improper to quote it; for it is well known that our Revolution made a resort to expedients necessary in a variety of instances, which could not be justified by principle, and that for a time personal rights were compelled to bend before public necessity.

A distinction is very frequently relied on, between the freedom and the licentiousness of the press, which it is proper to examine. This seems to me to refute every other argument which is used on this subject; it amounts to an admission that there are some acts of the press which Congress ought not to have power to restrain, and that by the amendment they are prohibited to restrain these acts. Now, to justify any act of Congress, they ought to show the boundary between what is prohibited and what is permitted, and that the act is not within the prohibited class. The constitution has fixed no such boundary, therefore they can pretend to no power over the press, without claiming the right of defining what is freedom, and what is licentiousness, and that would be to claim a right which would defeat the constitution; for every Congress would have the same right, and the freedom of the press would fluctuate according to the will of the Legislature. This is, therefore, only a new mode of claiming absolute power over the press.

But it is said, that the phraseology of the amendment proves that the framers of it considered the freedom of the press as limited, otherwise they would have used the same words in speaking of the freedom of the press which they use in speaking of religious establishments. This argument is certainly fanciful; but it shall be considered, as it is my design to leave no argument, which I recollect to have seen, unanswered. It is plain the writer of the amendment intended to indulge his copiousness of expression, or that he had been accustomed to use certain words in a particular connection. The amendment says, in speaking of religion, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The change of expression, according to the argument, ought to have some new object; and yet there can be no doubt that if the word *prohibiting* was dropped, the provision would be the same. But the argument will lose all force when the amendment is read to the end, and it seems to have arisen merely from the committee having stopped in the middle of it, and lost sight of the latter part. It says, "or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for a redress of grievances." The argument is that the word *abridging*, as it is distinguished from *respecting*, implies that the freedom of the press was before limited; but, if this is true, it must also be the case with the right of peaceably assembling and petitioning, &c. Is this pretended, and may we hereafter expect to have a definition of the right of petitioning, which will put it also under the control of Congress?

I think I have answered every construction of the amendment which can prevent its being completely prohibitory of all legislation by Congress on the subject of the press, unless there was some existing restraint under the Constitution of the United States, at the time of adopting the amendment. To this inquiry I now proceed.

It is said, there is a common law which makes part of the law of the United States, which restrained the press more than the act of Congress has done, and that therefore there is no *abridgment* of its freedom. What this common law is I cannot conceive, nor have I seen any body who could explain himself when he was talking of it. It certainly is not a common law of the United States, acquired as that of England was, by immemorial usage. The standing of the Government makes this impossible. It cannot be a code of laws adopted because they were universally in use in the States, for the States had no uniform code; and if they had, it could hardly become, by implication, part of the code of a Government of limited powers, from which every thing is expressly retained, which is not given. There never was a uniform code of laws at any time among the States. Their settlement took place at different times, and the law of England was adopted up to the respective settlements, in the whole or by selection. Virginia recognized the common law, properly so called, and the statutes to the 4th James I.; Maryland, the common law, and statutes up to the time of her settlement; and South Carolina, I am told, never acknowledged any of the English statutes to be in force, except what were specially adopted by law. With this dissimilarity at the commencement, there can be no doubt that the decisions of courts, and the statutes which were constantly passing, must have made the codes of the several States altogether unlike at the time of adopting the Federal Government. Is it the law of England, at any particular period, which is adopted? It cannot be believed that this was a universal favorite; for it had been greatly altered in every State, to adapt it to their situation, and it cannot be believed that after altering it under the instruction of experience, it was intended to bring it again into force. But the nature of the law of England makes it impossible that it should have been adopted in the lump into such a Government as this is; because it was a complete system for the management of all the affairs of a country. It regulated estate, punished all crimes, and, in short, went to all things for which laws are necessary. It might be more properly considered as the measure of the powers left with the States. But how was this law adopted? Was it by the constitution? If so, it is immutable and incapable of amendment. In what part of the constitution is it declared to be adopted? Was it adopted by the courts? From whence do they derive their authority? The constitution, in the clause first cited, relies on Congress to pass all laws necessary to enable the courts to carry their powers into execution; it cannot, therefore, have been intended to give them a power not necessary to their declared powers. There does not seem to me the smallest pretext for so monstrous an assumption; on the contrary, while the constitution is silent about it, every fair inference is against it. It was thought necessary to adopt expressly many of the ancient and most valuable principles of the law of England, such as trial by jury, and the writ of *habeas corpus*; and wherever the constitution gives cognizance of crimes, which were known in the law, it requires Congress to define them, and direct the punishment, except in the case of treason, which it defines itself. Perhaps it may be said, that the law of England with respect to libel was in force in all the States, and that therefore it is to be considered as adopted. When we recollect what that law is, that it punishes truth as well as falsehood, and that the Congress of 1798 did not think proper to enact its provisions in the full extent, it may be fairly denied that it could have accorded with the jealous republican temper of the Convention who adopted the constitution. If the common law was adopted on this subject, it was adopted entire as it then existed, and must remain for ever unchangeable as part of the constitution. The power of juries must be the same that it was then, and no more, and the improvement which was immediately afterwards produced by public opinion in that respect, in England, will be denied to us, and we may even have to regret the want of some of the provisions of the present odious law; but there is too little reason for the suggestion of there being a common law in the United States, to need a refutation. If there was a uniformity in the law respecting libels, it is one of the strongest evidences of what was before said, that this whole doctrine of libels was obsolete; for nobody can doubt, after hearing what it is, that it must have undergone considerable changes, if it had ever been practised on.

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The committee seem to suppose, for I confess it is very difficult to comprehend this part of their

argument, that the law of libels is adopted by that part of the constitution which extends the judicial power to cases of law and equity arising under the constitution; for this is the expression of the part referred to by them, and not "offences arising under the constitution," as they have quoted it. How this can be inferred, I cannot conceive. If the expression was "offences," as they assert, still it would mean offences on which Congress was directed by the constitution to legislate; but, as the expression really is, the cases are innumerable which come within it. See "The Federalist," vol. II., for an explanation of this part of the constitution. It is there said: "It has been asked, what is meant by cases arising under the constitution, in contradistinction from those arising under the laws of the United States? All the restrictions on the authority of the State Legislature furnish examples of it," &c. For the opinion of the same writer, as to the force of the common law in the United States, see same volume, page 345, and the two following pages, in which he answers the objection to an omission of its provisions, and admits that it is not adopted by the constitution.

Upon the whole, therefore, I am fully satisfied, that no power is given by the constitution to control the press, and that such laws are expressly prohibited by the amendment. I think it inconsistent with the nature of our Government, that its administration should have power to restrain animadversions on public measures; and for protection from private injury from defamation, the States are fully competent. It is to them that our officers must look for protection of persons, estates, and every other personal right; and, therefore, I see no reason why it is not proper to rely upon it, for defence against private libels.

The call for the question being loud,

Mr. McDOWELL rose, and hoped the question would not now be taken, but that the committee would rise, it being now a late hour of the day, and he doubted not other gentlemen would wish to deliver their sentiments upon this important question; and he thought an hour or two of tomorrow might be well employed in the discussion of this subject—a subject which had been brought before the House by the people, and ought, therefore, to receive a full discussion. He moved the committee to rise.

The question on rising, was put and negatived—55 to 42.

The question was then taken on the resolution, and carried, 52 votes being in favor of it.

The question was then taken upon the third resolution, which was carried without a division.

The committee then rose, and the question being upon concurring in the agreement of the committee for the first resolution,

Mr. LIVINGSTON entered upon a defence of the sentiments which he delivered when the passage of this law was under consideration, which, he said, had been much misrepresented; but, after making some progress in his observations, the Speaker declaring them unconnected with the question before the House, he sat down, and the first resolution was decided by yeas and nays, and stood—52 to 48, as follows:

YEAS.—John Allen, George Baer, jr., Bailey Bartlett, James A. Bayard, Jonathan Brace, David Brooks, Stephen Bullock, Christopher G. Champlin, John Chapman, James Cochran, William Craik, Samuel W. Dana, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, William Gordon, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Thomas Hartley, William Hindman, Hezekiah L. Hosmer, James H. Imlay, Samuel Lyman, James Machir, William Matthews, Daniel Morgan, Lewis R. Morris, Harrison G. Otis, Isaac Parker, Thomas Pinckney, John Read, John Rutledge, jr., James Schureman, Samuel Sewall, William Shepard, Thomas Sinnickson, Nathaniel Smith, Peleg Sprague, George Thatcher, Richard Thomas, Mark Thompson, Thomas Tillinghast, John E. Van Allen, Peleg Wadsworth, Robert Waln, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Robert Brown, Samuel J. Cabell, Thomas Claiborne, William Charles Cole Claiborne, Matthew Clay, John Clopton, Thos. T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorph, William Findlay, John Fowler, Nathaniel Freeman, jr., Albert Gallatin, James Gillespie, Andrew Gregg, John A. Hanna, Carter B. Harrison, Jonathan N. Havens, Joseph Heister, David Holmes, Walter Jones, Edward Livingston, Matthew Locke, Matthew Lyon, Nathaniel Macon, Blair McClenachan, Joseph McDowell, Anthony New, John Nicholas, Josiah Parker, Thompson J. Skinner, Samuel Smith, William Smith, Richard Sprigg, Richard Stanford, Thos. Sumter, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Robert Williams.

Mr. McDOWELL then moved an adjournment; which was negatived—55 to 38.

The question was then taken on the second resolution, upon which the yeas and nays were exactly the same as upon the first.

The question on the third was concurred in, 61 votes being for it.

**SATURDAY, March 2.**

**EVENING SITTING.**



## *Law of Retaliation.*

Mr. OTIS called the order of the day on the bill vesting the power of retaliation, in certain cases, in the PRESIDENT OF THE UNITED STATES; when

Mr. DENT moved to postpone the consideration of this bill until the next session of Congress; which motion was negatived—35 to 32.

The House then went into a Committee of the Whole on this bill, and after some discussion, and an amendment being introduced into the preamble of the bill by Mr. DAYTON, (the Speaker,) to make it apply generally to any acts of severity that may be committed by the French Republic in pursuance of any violent decree, instead of applying particularly to the decree declaring American citizens, found on board vessels of their enemy, pirates, and liable to suffer death, the committee rose, and the amendment was concurred in.

The question being, "Shall this bill pass?"

Mr. LIVINGSTON complained that this bill went to place the power of life and death in the hands of the PRESIDENT, with respect to every Frenchman in this country, in case the French Government should commit any act of violence against one of our citizens. He doubted, indeed, whether he would not have this power, in case of any American citizen being killed in battle on board a British ship. The Legislature, he said, had no right to vest this power, except in case of war; nor did he believe it would ever be exercised, if given. And as the decree complained of had been two years in existence without being carried into effect, he thought there was no need now to create an alarm about it. Indeed, the last decree having been suspended, he considered the first to be so also.

Mr. EDMOND was sorry, at this late hour, to occupy a single moment of the time of the House; but he found himself called upon to say a few words. It was a painful reflection, he said, that any nation in the world should deliberately pass a legislative act for the purpose of authorizing the commission of murder; for the *arrêt* of the French Republic was nothing less than a law for putting innocent men to death. An instance like it could not be found on record. In time of war retaliation is found necessary to prevent the enormities of an enemy. Indeed, the intention of retaliation is always to prevent cruelty. This decree was said to be suspended; but if it were not intended to give it future operation, it would have been repeated. It might be convenient to suspend the decree for a time; but when a nation is so depraved as to pass a decree of this kind, what security have we that the decree will not be brought into operation in the recess of Congress. If it is not, the present law can have no effect. Mr. E. believed no one but the gentleman from New York could have supposed that this law was meant to retaliate for men killed in battle. If he examines the bill, he will find that the person must have been put to death pursuant to a decree of the French Republic. And whilst we suffer our humanity to be touched with respect to French citizens here, we ought not to forget American citizens, whose blood may be spilt in France under this decree.

Mr. GALLATIN observed, that three arguments had been used in favor of passing this bill. One of them was, that it would afford protection to our seamen; the second, to give sufficient cause of irritation by repelling every hostile measure of the French Government by one of a similar nature; the third, to prevent the people of America having any belief in either the sincerity of France or the probability of a negotiation.

Mr. G. did not believe that this bill would give the protection expected to our seamen; and as to the power of retaliation, well knowing, both from the character of the PRESIDENT and the general character of America, that retaliation would be repugnant to his feelings, and the feelings of the public at large, he did not believe a single case would ever happen in which it would be exercised. What, said Mr. G., would be the degree of proof necessary to carry into effect this law? A man must have been taken on board a British vessel, or some other vessel at war with France, and put to death or ill-treated by the French. It must also be proved to have been done in pursuance of a French decree. In the next place, he must be an American citizen, and have been compelled to go on board such ship; and Mr. G. did not know how all this information was to come to the PRESIDENT.

If, said Mr. G., it be really our intention to give protection to our seamen, instead of authorizing the proposed retaliation, we ought to go to the source of the evil, and endeavor to prevent the imprisonment of our seamen by the British, which alone brought them into this situation. This bill does not comprehend any American who goes on board of a British ship of war voluntarily; they are not entitled to our protection by the law of nations; they must seek protection from the country under whose flag they sail. Those American citizens only, therefore, who have been forced on board a British ship of war, and who have been obliged to fight their battles against their will, are by this bill to be protected, so far as retaliation can protect them.

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Mr. G. said, he had been induced to mention this point, not only because it naturally flows from the subject, but from one of the documents which had been submitted to the House. He alluded to Lord Grenville's letter to Mr. King, our Minister at London. [Mr. G. read an extract of that letter.]

Mr. G. observed, upon this document, that it contained a very extraordinary acknowledgment. Lord Grenville says, "the King feels the protection due to those who sail under his flag." Thereby openly acknowledging that there are a number of American seamen who do sail under his flag. And, as not many of our seamen had selected his service in preference to that of their own country; as our own seamen, if left to their choice, would sooner sail on board of our own ships

than those of His British Majesty, it is therefore an explicit avowal of the impressment of American seamen. That identical document which communicates the offensive decree of France, is also the occasion of this bill.

This acknowledgment, said Mr. G., leads to more than one consequence. If we pass this bill, it will amount to this, that knowing American seamen were impressed by the British, the fact having been thus confessed, we choose rather to pass a retaliatory law against the French for punishing our seamen found in a situation into which they were arbitrarily forced by the British, than apply a remedy to the root of the evil.

Again, another part of this letter of Lord Grenville, when connected with this measure, made an extraordinary impression on his mind. The acknowledgment having been made, it might have been supposed Lord Grenville would have ordered all such American seamen to have been released; but he does not do this, but says the King will cause retaliation to be exercised. To do this might have some effect whilst these men remained on board of the King's ships; it would, therefore, increase his power, and prolong the time during which such seamen will remain on board. But Lord Grenville does not stop here. He says, the "King leaves it with the different powers to take measures accordingly." So that he gives us advice what we ought to do, and we are about to do it. Mr. G. had said, this bill was not likely to produce any effect; yet, if it should be put in force, by referring once more to Lord Grenville's letter, it will appear that the retaliation of which he speaks is to be confined to French prisoners, whom the fortune of war had thrown into the power of Great Britain; and he believed the present law should be confined to persons who should be captured by vessels of the United States. And it would be most effectual in this way; because if it were to operate against other French citizens in this country, the French Government would not be concerned about it, since ninety-nine out of a hundred of those citizens are probably emigrants, or persons for whose safety they have no interest.

If by meeting every hostile act of the French Government by a measure of a similar kind, we could render this country more respectable, Mr. G. should be in favor of it; but, in the present case, he did not think the measure applicable. There was a great difference, he said, between measures of hostility and retaliation. Measures of retaliation could do no good, except as preventives; and as the decree in question had already been two years in force without being carried into effect, it could scarcely be expected that it would now be exercised.

It must be allowed, Mr. G. said, that some change had taken place in our situation with respect to France; but it seemed as if gentlemen wished, by the passing of this bill, to take off any impression of this kind which might have been made on the people by the late appointment of Ministers to treat with France. Mr. G. did not mean to express any opinion on the probable issue of that nomination. He believed the PRESIDENT had taken certain measures; and that nothing which he could do or say would either accelerate or delay those measures. He wished to leave them uncontrolled, to have the effect they may, whatever it may be. Yet, in relation to what had been said with respect to Guadaloupe, he believed that captures had taken place; yet, when we speak of information, there was a letter written by one of the commanders of our vessels, which says, that a number of vessels go there for the purpose of being taken, in order to carry on a trade contrary to the laws of the United States. [The SPEAKER called to order.] Mr. G. said he was about to conclude. He considered this bill as calculated to have but little effect, and had it not been for the arguments of the gentleman from Massachusetts, he should have been at a loss to have known for what reason it was passed.

Mr. DANA said, "with what measure you mete, the same shall be measured to you again," was a doctrine long since established. It was a doctrine which injured man had assumed in all countries, and the justice of which had been universally admitted.

An appeal to this national sentiment, and to the writers on this subject, would be a sufficient answer to the gentleman's humanity for Frenchmen, to the forgetfulness of his fellow-citizens.

The general principles of the law are too just to be questioned. The gentleman from Pennsylvania, well knowing that the national feelings of man must approve of the principle, undertakes to distinguish away the subject. Instead of coming forward to the point, he has gone into complaints against British inhumanity. But why speak of British inhumanity, if not to embarrass this bill? This bill is intended against the French nation. If the gentleman wished a similar law against the British, neither he nor his followers could be suspected of any attachment to that nation, which would have prevented him or them from bringing forward such a measure. The gentleman knew such a measure would be embarrassed with difficulties; and, if it failed, it would deprive him of the argument he now makes use of. Shall we, said Mr. D., because our seamen have been first injured by Great Britain, when France uses them still worse, abandon them? Because they have been once injured with impunity, shall we turn our backs upon them for ever? The doctrine is too inhuman, too absurd, to be countenanced.

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The gentleman from Pennsylvania assigns another reason against this bill. To make it effectual he says certain information must be given to the PRESIDENT, viz: that the person ill-treated is an American seaman; and that he has received his ill-treatment in pursuance of a decree of the French Government. Has the gentleman to learn that, when the officers of the French Government do an act of violence, which the principles of humanity and the law of nations condemn, if the nation does not punish its officers for the act, it must be done in pursuance of the orders of Government?

The gentleman's other objection was honorable to Americans. It was that the humanity of the PRESIDENT, and of the people of this country, would not suffer the law, if passed, to be carried into effect. Mr. D. said it was difficult to reason on this subject, but, admitting the fact, it affords a

decisive proof that this power will never be abused, and at the worst, the law could only be ineffectual, and it might have the good effect of preventing the unprincipled murder of our countrymen.

The gentleman from Pennsylvania had said that the decree of the British Cabinet might have had some effect in procuring a suspension of the decree of the Executive Directory.

[Mr. GALLATIN denied having said that the French Government had suspended their decree on account of the threats of the British. Mr. King's first letter is dated the 27th of November, and his second, mentioning the suspension of the decree, the 28th, so that that was impossible.]

The gentleman has taken an opportunity of referring to the note of Lord Grenville. If the gentleman was disposed to make a philippic against Lord Grenville, Mr. D. said, he had no reason to vindicate him; but, when the gentleman went so far beside the question to do it, it showed he had little respect for his audience. But the gentleman from Pennsylvania was certainly incorrect, when he said the note of Lord Grenville was a direct admission that impressed American seamen were held on board the British fleet. He would state a case in which American seamen would be liable to the effects of the French decree, where the British Government could not be censurable. Suppose an American vessel captured and plundered by the French, and some of our seamen, to escape the severities of a French dungeon, had escaped and got on board of a British ship of war, hoping by that means, in time, to get to their own country. Such cases, he had no doubt, had happened, and in such, the gentleman must allow, our citizens must be liable to suffer as pirates, without any blame resting on the conduct of the British.

Mr. OTIS said, it had been so long unfashionable to vindicate the conduct of France, or to make apologies in her behalf, that those who now wished to do it, attempt to excite hatred against another nation. The gentleman from Pennsylvania has gone altogether upon this principle. He has said but little against the principle of the bill. His only objection to it was that it was not sufficiently extensive. Admitting the injuries to exist with respect to Great Britain, and that many of our seamen have been impressed by them, did the gentleman wish us to retaliate by impressing British seamen? No, he would be the first to oppose such a law; and yet this is the only just kind of retaliation that could be adopted, for he would not wish us, because the British have impressed our seamen, to put the first British subject we meet to death; and to talk of impressing their seamen, would be perfectly ridiculous.

It was not incumbent upon him, Mr. O. said, to enter into any argument to distinguish between the injuries which we have received from the French and British Governments, nor to palliate the conduct of any nation which has done us wrong; but when things perfectly clear are violently distorted, to excite undue prejudices, with a view of diverting the attention of the House from the subject before them, it becomes necessary to notice the attempt. Let it be granted that Great Britain impresses our seamen; she renounces every right to do so. She perseveres, it is true, in her right to reclaim her own seamen from on board our vessels, and in making this claim, some abuses may have taken place.

If the gentleman from Pennsylvania had seen fit to do justice to Lord Grenville, he would have turned to another document laid before Congress by the Secretary of State last year, wherein he says that Great Britain had never assumed the principle of impressing American seamen. His friend from South Carolina (Mr. PINCKNEY) affirmed what he said, and showed that the great difficulty was in preventing false passports from being given. This was verified in the conduct of Captain Loring and the Baltimore sloop of war. The difference, Mr. O. said, between the conduct of France and Great Britain towards us was palpable. Great Britain never refused to rectify grievances; she never heaped outrages upon us. If she had, he should have been for vengeance and war against that country, and the cry would certainly have been echoed by the gentleman from Pennsylvania.

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Mr. O. said he disdained that sort of sensibility which his friend from Connecticut (Mr. DANA) seemed to think redounded to the honor of the people of this country. He owned it would not wound his feelings, in the smallest degree, to see the law of retaliation executed upon any French citizen in America. If one American citizen fell a sacrifice to the decree of France, it would altogether absorb his sympathies for Frenchmen. There is a French citizen, said he, now living in the neighborhood of New York, who originally came here as Ambassador from the French Republic; and I must say that I should not feel the least sensibility if he should fall a victim to this law! Indeed, there were French citizens enough on whom to execute the law; though he joined gentlemen on all sides of the House in hoping that there would be no occasion to carry it into effect.

The gentleman from New York says that a law of this kind ought not to be passed, except in time of war; and yet, said Mr. O., the gentleman will not let us go to war, and in the mean time our citizens may suffer with impunity under the bloody decrees of France. But he believed Congress had clearly the power, from those words of the constitution which say, "they shall grant letters of marque and reprisal"—reprisal, doubtless, not only against ships, but against property and persons, to pass a law of this kind. Mr. O. thought it necessary, therefore, to show to the French Republic that we are not negotiating through fear; that we are desirous of keeping peace with all the world, so long as we can do it consistent with our honor and independence; but no longer.

Mr. S. SMITH wished to have postponed this bill till the next session. He thought it improper as it originally stood; as the decree which was passed two years ago was never acted upon. Indeed he had somewhere seen that American seamen were released on application of Mr. Skipwith, our Consul in France. The bill, as amended, is far less objectionable, yet he wished it were postponed till next session, because he never wished to see a law of this kind on our code. He agreed with

the gentleman from Connecticut that it was legalizing murder.

Mr. S. believed the gentleman from Massachusetts mistaken in many respects. He himself believed France was disposed to make peace. Mr. S. proposed an amendment to the bill confining the retaliation to persons captured in pursuance of any of the laws of the United States. If this amendment was agreed to, the bill would be less exceptionable; for, though the gentleman from Massachusetts had said he should not regret the murder of any French citizen, under this law, nothing surely but the heat of argument could have led him to say this; he must own he should: nor did he believe that that gentleman, or any other, could lay hold of an unfortunate Frenchman, and put him to death, though one of our citizens might have suffered unjustly and cruelly in France.

The amendment was carried.

Mr. MACON did not wish to see this law in our code. In his opinion nothing but the utmost necessity ought to induce us to pass it. Nor could he believe that the gentleman from Massachusetts could see any man, even if taken in arms, put to death in cold blood! Though it might be right to punish those who passed the decree, if they could be laid hold of, it was a mournful thing to retaliate upon innocent persons the offences of the guilty.

The gentleman from Connecticut had quoted a scriptural passage—"With the same measure that you mete, the same shall be measured unto you." In the same volume, Mr. M. said, he would also find, "Do unto others as ye would they should do unto you;" and a law of this kind could not be justified upon the latter principle.

It is said we ought to show that we do not act from fear. He thought this one of the last measures the House should pass to evince that. Mr. M. hoped, that on the last evening of the session, a bill of this kind would not be pressed. The members had heretofore been accustomed to part in good humor, at the close of the session, however they might have differed in the course of it. He hoped they should not now depart from this custom. He therefore moved to postpone the bill till next session.

The question for postponement was negatived—48 to 37.

After a few observations from Mr. McDOWELL, against the bill, it was ordered to be read a third time and passed—yeas 56, nays 30.

A motion was made by Mr. LIVINGSTON, to adjourn till ten in the morning, as it would be impossible to get through the business to-night, and he understood the Senate were about to adjourn to that time.

Mr. DANA proposed to adjourn till seven in the evening; but that motion being negatived, the House adjourned till ten o'clock on Sunday morning.

### **SUNDAY MORNING, March 3.**

Several reports were made by the Committee of Enrolment, and sundry messages communicated from the Senate relative to the bills in their passage.

#### ***Vote of Thanks.***

Mr. CHAMPLIN rose and addressed the House as follows:

"Sensible as I am of the importance of the duties that at all times attach to a gentleman who presides over the deliberations of this assembly, and more especially in times of imminent danger; impressed with the able and honorable manner in which those duties have been discharged by the gentleman who now fills the chair; and believing the sentiments I entertain on this occasion to be in perfect unison with those of every member of this House—I beg leave to submit a resolution expressive of the sense of the House on this subject:"

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He then moved the following resolution:

*Resolved*, That the thanks of this House be presented to Jonathan Dayton, in testimony of their approbation of his conduct in discharging the arduous and important duties assigned him whilst in the chair."

This motion was received by the Clerk, and the question being put upon it by him, there appeared for it 40, against it 22.

The resolution being carried, the SPEAKER rose and addressed the House as follows:

No language, gentlemen, can do justice to those feelings which this second vote of approbation of my conduct, after four years' presidency in the House of Representatives, has excited in my breast. It would be unjust in me not to acknowledge, that to the support uniformly afforded, and to the confidence unremittedly reposed in me, rather than to any merit of my own, is to be ascribed the success with which you are pleased to declare that the duties of the chair have been executed.

Permit me to say, that far from being displeased, I have, on the contrary, been very much gratified at hearing that the resolution of thanks has not been passed, as a mere matter of form, unanimously. As in all public bodies, there have ever been found men whose approbation must be considered by the meritorious as a

censure, so in this body, there are, unhappily, some whose censure will be regarded by all whose esteem I value, as the highest testimony of merit. About to abandon the seat which I have held in this branch of the General Legislature for eight successive years, I take advantage of the moment which precedes our separation to bid you, gentlemen, an affectionate farewell.

Mr. MACON moved the usual resolution appointing a joint committee with the Senate, to inform the PRESIDENT, that Congress is ready to adjourn without day, unless he has any further communication to make them; which being agreed to, Messrs. OTIS, MACON, and BROOKS, were appointed a committee on the part of this House.

Mr. OTIS, from the committee appointed to wait upon the PRESIDENT, informed the House that they had performed that service; and he informed them "that he had no further communication to make, except to express his wish for the health and happiness of the members, and a pleasant journey home to their families and friends."

The SPEAKER then adjourned the House without day.

#### NOTE.

The fifth Congress, the first under the administration of Mr. John Adams, was wholly occupied with measures of defence against France, and incurred debt and taxes in these preparations which greatly impaired its popularity, and contributed to the overthrow of the federal party: but there was great necessity for these exertions at that time, and both national honor, and national interest, and national safety required them to be made. Besides the insults which went to our honor, and the depredations which affected our commerce, there were threats of attack and invasion not to be despised. The Directory, inflated with the successes of Buonaparte in Italy, with the subjugation of several small powers, the transformation of several principalities and kingdoms into republics, the peace with the Emperor of Germany, the neutralization of some kingdoms and the alliance of others: exalted with so much success, and anxious to bring the United States into their system and especially into the war with Great Britain, had recourse to all the means of accomplishing its purpose—first, by entreaties; afterwards by insults and outrages; and finally by threats of war. It is difficult for general history to give a view of these proceedings, and it is only in contemporary sources that they can be adequately studied. The Debates of Congress are one, and the largest one, of these sources; documents on which the debates are founded are another: and it is often desirable, in after time, to produce these documents in greater extent than used in the debate. That is the case with these debates on French affairs during the time of which we speak, and the communications of our Ministers sent to Paris furnish the documentary evidence necessary to complete them—evidence too well known to require copious quotation at the time, but now little known to the subsequent generation. This note then, in the nature of an appendix to the debates of the fifth Congress, will contain extracts from the dispatches of the Ministers of that day: and first of General Pinckney.

Arriving at Paris the 5th of December 1796, he immediately waited on the Minister of Exterior Relations (Citizen Charles De la Croix) in company with Mr. Monroe, according to an appointment previously made, and had an interview with him; of which he gives this account in a dispatch to Mr. Pickering, Secretary of State: (*Extracts only are given.*)

Mr. Monroe and myself, with my secretary, Major Rutledge, about two o'clock, waited upon M. De la Croix, and I was introduced by Mr. Monroe as the person appointed as his successor. The Minister at first received us with great stiffness, but afterwards, on our conversing on some general subjects, he unbent and behaved with civility; and, on receiving the official copies of our letter of credence and recall, said he would deliver them, without delay, to the Directory. He desired Major Rutledge to let him have our names of baptism, and our ages, that cards of hospitality might be made out, which he said were necessary to reside here unmolested. This requisition was immediately complied with, and he promised to send the cards the next morning. When this interview was known, the reports which had been spread abroad before my arrival, of my not being received by the Directory, vanished, and the general idea seemed to be that there would be no objection to receive me as Minister from America. At 11 o'clock, on Monday, December 12, Mr. Prevost (Mr. Monroe's secretary) called upon me, and told me that Mr. Monroe had just received a letter from M. De la Croix, and desired to know if I had received one. I said no. He then showed me M. De la Croix's to Mr. Monroe, which was as follows: [*Date, Dec. 9.*]

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CITIZEN MINISTER: I hasten to lay before the Executive Directory the copies of your letters of recall, and of the letter of credence of Mr. Pinckney, whom the PRESIDENT OF THE UNITED STATES has appointed to succeed you, in the quality of Minister Plenipotentiary of the United States near the French Republic. The Directory has charged me to notify you "that it will not acknowledge nor receive another Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it." [*Date, Dec. 11.*]

I waited until next morning, expecting to receive a notification from M. De la Croix, when, not hearing from him, I wrote him the following letter:

CITIZEN MINISTER: Colonel Monroe has been so good as to communicate to me your

letter to him of the 21st Frimaire, wherein you inform him that you had submitted to the Executive Directory his letters of recall, and my letters of credence as Minister Plenipotentiary from the United States of America, and that the Directory had instructed you to notify him "qu'il ne reconnoitra et ne recevra plus de Ministre Plenipotentiare des Etats Unis jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la République Française est en droit d'en attendre." [That it will not acknowledge nor receive any Minister Plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French Republic has a right to expect from it.] This communication has filled me with real sorrow, as I am thoroughly convinced that the sentiments of America and its Government—for they are one—are misunderstood, and that I am not permitted even to attempt to explain them, or, in the terms of my letters of credence, to endeavor "to efface unfavorable impressions, to banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." Devoted, as I am, to the liberty, prosperity, and independence of my own country, the freedom, happiness, and perfect establishment of the French Republic, have always been dear to me, and to have been instrumental in cementing the good understanding which, from the commencement of their alliance, has subsisted between the two nations, would have been the height of my ambition. I most fervently pray that there may be a speedy and candid investigation of those points in which you differ from us, that affection may banish distrust, and that the alliance of the two Republics may be perpetual.

In your letter to Colonel Monroe you do not desire him to make any communication to me, and I am indebted to his politeness for the knowledge I have of the intentions of the Directory. I submit to you, citizen Minister, that, as the letters of recall had been received by Mr. Monroe, and official copies of his letters of recall, and my letters of credence, had been delivered to you, that the sentiments of the Directory should be communicated by you immediately to me, that I may, without delay, transmit them as from the Executive of this Republic to the Government of the United States; and that I may be informed by you, whether it is the intention of the Directory that I should immediately quit the territories of the Republic, or whether I and my family may remain until I hear from my Government. As I have not received the cards which, in your interview, you said I ought to possess in order to enable me to reside here, and that they should be transmitted to me next morning, I am the more doubtful on this subject than I should otherwise be. Accept my best wishes. [*Dec. 13.*]

This letter I sent by Major Rutledge, who delivered it to M. De la Croix, and made the following report of what passed between them, which he immediately reduced to writing:

"I this day waited upon M. De la Croix, the Minister for Foreign Affairs, at two o'clock, as bearer of a letter from General Pinckney. I was admitted immediately on sending in my name, and delivered the letter. Having informed him from whom it came, and that there was a French translation annexed, he opened it and proceeded to read the letter in my presence, which, when he had finished, he desired me to return to General Pinckney as his answer: That the Executive Directory knew of no Minister Plenipotentiary from the United States of America, since the presentation of Mr. Monroe's letters of recall, and that the Executive Directory had charged him to notify to Mr. Monroe (here he read the quotation contained in the letter) qu'il ne reconnoitra et ne recevra plus de Ministre Plenipotentiare des Etats Unis, jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la République Française est en droit d'en attendre. Which notification the Directory relied upon Mr. Monroe's imparting to his own Government, as well as communicating to General Pinckney."

On the 25th of Frimaire, (15th of December,) about three o'clock in the afternoon, a Mr. Giraudet called on me, and said he was chief secretary in the Department of Foreign Affairs; that he came on the part of the Minister of Foreign Affairs, to signify to me that, with respect to my letter to him, (which he produced, together with the translation,) he could not directly communicate with me on it, as such direct communication would be acknowledging me as Minister, when the Directory had determined not to receive me; that, as to the other part of my letter, relative to remaining here, that he supposed I was acquainted with the laws of France, as they applied to strangers. I told him that I was not acquainted with the local laws of the Republic; he said that there was a decree which prevented all foreigners from remaining at Paris without particular permission, which, as the Directory did not mean to grant to me, of course the general law would operate. I answered, that I could not conceive the having a direct communication with me would involve the consequences he stated; that if Mr. Monroe had died before my arrival, the information that they would not acknowledge me, must, of course, have been made to myself. Mr. Monroe having received his letter of recall from our Government, could not now act officially any more than if he had ceased to exist; that I was indebted to Mr. Monroe's politeness for the information I had received of the intention of the Directory not to acknowledge me, but that he had not intended it as an official communication. That, with regard to the laws of France relative to

strangers, the law which he had cited did not apply to the requisition of my letter, which was to know whether it was the intention of the Directory that I should quit the territories of the Republic; or whether I might remain here until I should hear from my Government. He said he rather believed that it was the intention that I should quit the territories of the Republic; but, as it admitted of a doubt, he would mention it to the Minister, with whom he was to dine, and acquaint me with the result in the evening. I told him I should be obliged to him, should it be the intention of the Directory that I should quit the Republic, to inform me in what time I was to set out, as my baggage was not arrived from Bordeaux; that I meant not to ask any personal favor, but to have the intention of the Directory clearly expressed, as it related to me, in the situation in which I came to France. He said he would, and expressed a regret at being the bearer of disagreeable information, and then departed. His behavior and manners were very polite.

In the evening, about eight o'clock, he returned, and informed me that, in answer to the doubt which had been entertained in the morning, (a doubt, he observed, which had proceeded from his own inattention to the words of M. De la Croix,) the Minister could only reply that he understood the Directory to mean the territory of the Republic, and not Paris alone, which was to be quitted; that as to the time in which it was necessary to depart, the Minister could not designate it, but that he would have another communication with the Directory, and that their intentions should be made known to me in a more explicit manner upon both points; that, at the same time, he must inform me that, in all probability, M. De la Croix would not be the organ through which they would be addressed, as the Minister of the *Police Générale* would be the officer under whose department my case would come. I replied that I apprehended M. De la Croix was the proper organ through which information should come to me, as he knew the capacity in which I had come to France; whereas, the Minister of Police might regard me as a mere stranger, and throw me into confinement; that it was in the power of the Directory to receive me, or not: but they could not divest themselves of the knowledge which they had of the public character in which I came to France; and that, in that character, I was entitled to the protection of the laws of nations, whether the Directory received me or not. If they permitted me to remain until I heard from my Government, I was under the protection of those laws; if they ordered me to quit the territories of the Republic, I was still entitled to letters of safe conduct, and passports on my journey out; that this was the case even with Ministers of belligerent powers, much more ought it to apply between us, who were at peace. Since this conversation, I have not heard from the Directory, or any of the Ministers or their agents. My situation, as you may easily conceive, is unpleasant; but if I can ultimately render any services to my country, I shall be fully compensated: at all events, it shall be my study to avoid increasing the discontent of this Government, without committing the honor, dignity, and respect due to our own. Should I fail in doing this, or should I err in the measures I pursue to accomplish it, the failing will not be in my zeal, but should be charged to my want of ability. At present, I think the ground I have taken has puzzled them: they wish me gone, but they apprehend that it would be too harsh a measure to send off, in a peremptory manner, the Minister of my country; though there is no saying what their conduct will ultimately be, as I am informed that they have already sent off thirteen foreign Ministers: and a late emigrant, now here, has assured them that America is not of greater consequence to them, nor ought to be treated with greater respect, than Geneva or Genoa. Those who regard us as being of some consequence, seem to have taken up an idea that our Government acts upon principles opposed to the real sentiments of a large majority of our people, and they are willing to temporize until the event of the election of President is known; thinking that, if one public character is chosen, he will be attached to the interest of Great Britain; and that, if another character is elected, he will be (to use the expression of Du Pont de Nemours, in the Council of Ancients) devoted to the interest of France; entertaining the humiliating idea that we are a people divided by party, the mere creatures of foreign influence, and regardless of our national character, honor, and interest.

I have seen Mr. Monroe very often since my arrival: his conduct has been open and candid, and I believe he has made me every communication which he thought would be of service to our country. He undoubtedly felt himself hurt at his being superseded; but I am convinced he has not, on that account, left any thing undone which he thought would promote the objects of my mission. The Directory and Ministers had, for some time before they were informed of his removal, treated him with great coolness; but as soon as they heard of his recall, their attentions to him were renewed. Should this Government attempt to make any further communications to me, through him, he has promised me to inform them that he cannot comply with their desire, as his powers have ceased. I remain, with great respect, &c. [*Dec. 15.*]

Major Rutledge having called on the Minister of Exterior Relations on another affair, and finished, inquired of the Minister if he had heard any thing further from the Directory, in relation to General Pinckney's remaining where he was:

"He answered, with marks of great surprise, that he thought he had already explained himself with sufficient clearness on the subject; that he had signified to General Pinckney, long since, the impossibility of his staying; that he thought he had exercised much "condescendance" in having been so long silent; which he had been induced to do by General Pinckney's having complained of the delay of his baggage, which, he supposed, must, by this time, have arrived from Bordeaux; that, in short, he should be sorry if his further stay should compel him to give information to the Minister of the Police. To this I replied, that General Pinckney had refused to regard himself in any other light than the one in which he had entered France, which had not been in a private capacity, but in a public character; which circumstance had been officially announced to the Directory, by his having delivered to the Minister of Foreign Affairs a copy of his letters of credence and by other acts. That this precluded all laws relative to strangers from operating on him, and put him under the protection of the law of nations, which he claimed in his favor. That Mr. Giraudet had taken leave with a promise to communicate to the Minister of Foreign Affairs the ground which General Pinckney had taken. That he returned again in the evening, and then said, that the Minister would again lay General Pinckney's letter before the Directory, and that their intentions should be made known to him as soon as possible. All this had, no doubt, been faithfully related to him by his secretary. He answered that General Pinckney must have mistaken Mr. Giraudet as to his intention of again laying his letter before the Directory. I told him that it was impossible; for that I had been present at both conversations, in which the material points had passed in English, and been repeated in French. He then said Mr. Giraudet had acted without his authority. I replied, that General Pinckney had, however, waited until this moment in expectation of hearing from him, agreeably to Mr. Giraudet's promise; that he was very far from intending to dispute the will of the Executive Directory; what he wanted was a communication of their wishes in writing. He said that it had already been given. I desired to know when; he answered in the notification which he had made, by their order, to Mr. Monroe; that it had contained their sentiments on Mr. Pinckney's staying, inasmuch as that his not being received, implied that he should depart. I denied that it was a fair deduction; he insisted that it was; I declared that it had not struck General Pinckney or any person with whom he had conversed; but that, however, if such was the construction which he had put upon it, I flattered myself that he could have no objection to throwing his idea upon paper, that General Pinckney might have something more substantial, than the authenticity of the word of his secretary to justify himself to his own Government, for quitting a spot to which he had come in obedience to their orders. The Minister here turned from me with some warmth, and said that he should do no such thing; that General Pinckney might make his own deductions; he desired to have no more communication with him. I only replied by a bow, satisfied to end a conversation which had already lasted near half an hour; during which I had not been admitted to the honor of a seat." [Dec. 26.

The written order to quit the territory of the Republic did not come: General Pinckney would not depart without it: the *Police Générale* did not molest him; two months elapsed, when Buonaparte having gained a great victory over the Austrians in Italy, the day after the arrival of the news of it in Paris, he received the following notification from the Minister, De la Croix:

"The Executive Directory has charged me to make known to you, that not having obtained special permission to reside at Paris, you are amenable to the law which obliges foreigners to quit the territory of the Republic. I had the honor of informing you near two months ago, by the principal Secretary of my department, of the intentions of the Government in this respect. I cannot dispense with notifying you of them to-day. Receive, sir, &c." [Feb. 1, 1797.

To which General Pinckney immediately returned this answer:

CITIZEN MINISTER: I did not receive, until 3 o'clock to-day, your note in date of the 6th inst., informing me that the Directory had charged you to acquaint me, that not having obtained particular permission to reside at Paris, I was subject to the law which obliged strangers to quit the territory of the Republic. I intimated to you some time since, by the Secretary General of your department, and by Major Rutledge, my Secretary, that I deemed a notification of this sort, in writing, from you necessary, previous to my departure. Having now received it, I shall, without delay, prepare to go, and, in the meanwhile, will be obliged to you for the necessary passports for myself and family, with our baggage, to quit the Republic, in my way to Holland. Accept, citizen Minister, &c.

This notification was addressed to "*Mr. Pinckney, Anglo-American*," upon which designation of his nationality, and the supposed motives for giving the order to depart so suddenly after having been so long delayed, General Pinckney remarks:

I should have made some observation on being termed Anglo-American, but, on inquiry, I found it was customary to call all my countrymen so, to distinguish us from the inhabitants of St. Domingo and the other French West India islands. I have received my passports, and shall, in two days, set out for Amsterdam. I know not what has occasioned this determination of the Directory after having permitted



me to remain here so long a time from their refusal to acknowledge me. You will judge whether the answer of the Senate and the House of Representatives to the President's Speech, and the late successes in Italy have not concurred to occasion it. Mr. De la Croix assured Major Rutledge, that he acted by the express orders of the Directory in this particular, and not from himself.

General Pinckney remained in Holland till the autumn of '97, when *Messrs.* Marshall and Gerry were joined with him in an extraordinary mission, and all three proceeded to Paris. Arrived there, they asked an interview with the Minister of Foreign Relations, now changed to the astute and supple Talleyrand—obtained it—and thus describe it in their dispatch to Mr. Pickering, the Secretary of State:

The Minister, we found, was then engaged with the Portuguese Minister, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the Minister perused and kept. He informed us "that the Directory had required him to make a report relative to the situation of the United States with regard to France, which he was then about, and which would be finished in a few days, when he would let us know what steps were to follow." We asked if cards of hospitality were in the mean time necessary? He said they were, and that they should be delivered to us; and he immediately rung for his secretary and directed him to make them out.

This interview with Talleyrand being over, a game of intrigue, impudence, venality and corruption was immediately commenced upon the American Ministers, by the intimates and agents of Talleyrand, which has but few parallels in history, and of which they give this account: [Pg 393]

On Saturday, the 14th, Major Mountflorencia (U. S. Consul General in Paris,) informed General Pinckney that he had a conversation with Mr. Osmond, the private and confidential secretary of the Minister of Foreign Affairs, who told him that the Directory were greatly exasperated at some parts of the President's Speech at the opening of the last session of Congress, and would require an explanation of them from us. The particular parts were not mentioned. In another conversation on the same day, the secretary informed the Major that the Minister had told him it was probable we should not have a public audience of the Directory till such time as our negotiation was finished; that probably persons might be appointed to treat with us, but they would report to him, and he would have the direction of the negotiation. The Major did not conceal from Mr. Osmond his intention to communicate these conversations to us.

In the morning of October the 13th, Mr. W., of the house of —, called on General Pinckney and informed him that a Mr. X., who was in Paris, and whom the General had seen, \* \* \* \* was a gentleman of considerable credit and reputation, \* \* \* \* and that we might place great reliance on him.

In the evening of the same day, Mr. X. called on General Pinckney, and after having sat some time, \* \* \* \* whispered him that he had a message from M. Talleyrand to communicate when he was at leisure. General Pinckney immediately withdrew with him into another room; and when they were alone, Mr. X. said that he was charged with a business in which he was a novice; that he had been acquainted with M. Talleyrand, \* \* \* \* and that he was sure he had a great regard for [America] and its citizens; and was very desirous that a reconciliation should be brought about with France; that, to effect that end, he was ready, if it was thought proper, to suggest a plan, confidentially, that M. Talleyrand expected would answer the purpose. General Pinckney said he should be glad to hear it. Mr. X. replied that the Directory, and particularly two of the members of it, were exceedingly irritated at some passages of the President's Speech, and desired that they should be softened, and that this step would be necessary previous to our reception. That, besides this, a sum of money was required for the pocket of the Directory and Ministers, which would be at the disposal of M. Talleyrand; and that a loan would also be insisted on. M. X. said if we acceded to these measures, M. Talleyrand had no doubt that all our differences with France might be accommodated. On inquiry, M. X. could not point out the particular passages of the speech that had given offence, nor the quantum of the loan, but mentioned that the *douceur* for the pocket, was twelve hundred thousand livres, about fifty thousand pounds sterling. General Pinckney told him, that his colleagues and himself, from the time of their arrival here, had been treated with great slight and disrespect; that they earnestly wished for peace and reconciliation with France; and had been entrusted by their country with very great powers to obtain these ends on honorable terms; that, with regard to the propositions made, he could not even consider of them before he had communicated them to his colleagues; that, after he had done so, he should hear from him. After a communication and consultation had, it was agreed that General Pinckney should call on M. X. and request him to make his propositions to us all: and, for fear of mistake or misapprehension, that he should be requested to reduce the heads into writing. Accordingly, on the morning of October 19, General Pinckney called on M. X., who consented to see his colleagues in the evening, and to reduce his propositions to writing. He said his communication was not immediately with M. Talleyrand, but through another gentleman in whom M. Talleyrand had great confidence. This

proved afterwards to be M. Y.

At six in the evening, M. X. came and left with us the first set of propositions, which, translated from the French, are as follows: "A person who possesses the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would result from the re-establishment of the good understanding between the two nations, proposes to employ all of his influence to obtain this object. He will assist the Commissioners of the United States in all the demands which they may have to make from the Government of France, inasmuch as they may not be contradictory to those which he proposes himself to make, and of which the principal will be communicated confidentially. It is desired that, in the official communications, there should be given a softening turn to a part of the President's Speech to Congress, which has caused much irritation. It is feared, that in not satisfying certain individuals in this respect, they may give way to all their resentment. The nomination of Commissioners will be consented to on the same footing as they have been named in the treaty of America with England, to decide on the reclamations which individuals may make on the Government of France, or on French individuals. The payments which, agreeably to the decisions of the Commissioners, shall fall to the share of the French Government, are to be advanced by the American Government itself. It is desired that the funds which, by this means, shall enter again into the American trade, should be employed in new supplies for the French colonies. Engagements of this nature, on the part of individuals reclaiming, will always hasten, in all probability, the decisions of the French Commissioners; and, perhaps, it may be desired that this clause should make a part of the instructions which the Government of the United States should give to the Commissioners they may choose. The French Government desires, besides, to obtain a loan from the United States; but so that that should not give any jealousy to the English Government nor hurt the neutrality of the United States. This loan shall be masked by stipulating, that the Government of the United States consents to make the advances for the payment of the debts contracted by the agents of the French Government with the citizens of the United States, and which are already acknowledged, and the payment ordered by the Directory, without having been yet effectuated. There should be delivered a note to the amount of these debts. Probably this note may be accompanied by ostensible pieces, which will guarantee to the agents the responsibility of the United States, in case any umbrage should cause an inquiry. There shall also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs." The person of note mentioned in the minutes, who had the confidence of the Directory, he said, before us all, was M. Talleyrand. The amount of the loan he could not ascertain precisely, but understood it would be according to our ability to pay. The sum which would be considered as proper, according to diplomatic usage, was about twelve hundred thousand livres. He could not state to us what parts of the President's speech were excepted to, but said he would inquire and inform us. He agreed to breakfast with Mr. Gerry the morning of the 21st, in order to make such explanations as we had then requested, or should think proper to request; but, on the morning of the 20th, M. X. called, and said that M. Y., the confidential friend of M. Talleyrand, instead of communicating with us through M. X., would see us himself and make the necessary explanations. We appointed to meet him the evening of the 20th at seven o'clock, in General Marshall's room. At seven, M. Y. and M. X. entered; and the first mentioned gentleman, being introduced to us as the confidential friend of M. Talleyrand, immediately stated to us the favorable impression of that gentleman towards our country—impressions which were made by the kindness and civilities he had personally received in America. That, impressed by his solicitude to repay these kindnesses, he was willing to aid us in the present negotiation by his good offices with the Directory, who were, he said, extremely irritated against the Government of the United States, on account of some parts of the President's speech, and who had neither acknowledged nor received us, and consequently have not authorized M. Talleyrand to have any communications with us. The minister therefore could not see us himself, but had authorized his friend M. Y. to communicate to us certain propositions, and to receive our answers to them; and to promise, on his part, that if we would engage to consider them as the basis of the proposed negotiation, he would intercede with the Directory to acknowledge us, and to give us a public audience. M. Y. stated to us explicitly and repeatedly, that he was clothed with no authority; that he was not a diplomatic character; that he was not \* \* \* \* he was only the friend of M. Talleyrand, and trusted by him: that, with regard to himself, he had \* \* \* and he earnestly wished well to the United States.

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On reading the speech (Mr. Adams' to Congress,) M. Y. dilated very much upon the keenness of the resentment it had produced, and expatiated largely on the satisfaction he said was indispensably necessary as a preliminary to negotiation. "But, said he, gentlemen, I will not disguise from you that this satisfaction being made, the essential part of the treaty remains to be adjusted; il faut de l'argent—il faut beaucoup d'argent;" *you must pay money, you must pay a great deal of money.* He spoke much of the force, the honor, and the jealous republican pride of

France; and represented to us strongly the advantage which we should derive from the neutrality thus to be purchased. He said that the receipt of the money might be so disguised as to prevent its being considered as a breach of neutrality by England; and thus save us from being embroiled with that power. Concerning the twelve hundred thousand livres little was said; that being completely understood, on all sides, to be required for the officers of the Government, and, therefore, needing no further explanation. These propositions, he said, being considered as the admitted basis of the proposed treaty, M. Talleyrand trusted that, by his influence with the Directory, he could prevail on the Government to receive us. We asked whether we were to consider it as certain, that, without a previous stipulation to the effect required, we were not to be received. He answered that M. Talleyrand himself was not authorized to speak to us the will of the Directory, and consequently could not authorize him. The conversation continued until half after nine, when they left us; having engaged to breakfast with Mr. Gerry the next morning.

October the 21st, M. X. came before nine o'clock; M. Y. did not come until ten: he had passed the morning with M. Talleyrand. After breakfast the subject was immediately resumed. He represented to us, that we were not yet acknowledged or received; that the Directory were so exasperated against the United States, as to have come to a determination to demand from us, previous to our reception, those disavowals, reparations, and explanations, which were stated at large last evening. He said that M. Talleyrand and himself were extremely sensible of the pain we must feel in complying with this demand; but that the Directory would not dispense with it; that, therefore, we must consider it as the indispensable preliminary to obtain our reception, unless we could find the means to change their determination in this particular; that if we satisfied the Directory in these particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them precisely on the same footing with England. We required an explanation of that part of the conversation, in which M. Y. had hinted at our finding means to avert the demand concerning the President's speech. He answered, that he was not authorized to state those means, but that we must search for them and propose them ourselves. If, however, we asked his opinion as a private individual, and would receive it as coming from him, he would suggest to us the means which, in his opinion, would succeed. On being asked to suggest the means, he answered, *money*; that the Directory were jealous of its own honor and of the honor of the nation; that it insisted on receiving from us the same respect with which we had treated the King; that this honor must be maintained in the manner before required, unless we substituted, in the place of these reparations, something, perhaps more valuable, that was money. He said, further, that if we desired him to point out the sum, which he believed would be satisfactory, he would do so. We requested him to proceed; and he said that there were thirty-two millions of florins, of Dutch inscriptions, worth ten shillings in the pound, which might be assigned to us at twenty shillings in the pound; and he proceeded to state to us the certainty that, after a peace, the Dutch Government would repay us the money; so that we should ultimately lose nothing, and the only operation of the measure would be, an advance from us to France of thirty-two millions, on the credit of the Government of Holland. We asked him whether the fifty thousand pounds sterling as a *douceur* to the Directory, must be in addition to this sum. He answered in the affirmative. We told him that, on the subject of the treaty, we had no hesitation in saying that our powers were ample; that, on the other points proposed to us, we would retire into another room, and return in a few minutes with our answer.

We committed immediately to writing the answer we proposed, in the following words: "Our powers respecting a treaty are ample; but the proposition of a loan, in the form of Dutch inscriptions, or in any other form, is not within the limits of our instructions; upon this point, therefore, the Government must be consulted; one of the American Ministers will, for the purpose, forthwith embark for America; provided the Directory will suspend all further captures on American vessels; and will suspend proceedings on those already captured, as well where they have been already condemned, as where the decisions have not yet been rendered; and that where sales have been made, but the money not yet received by the captors, it shall not be paid until the preliminary questions, proposed to the Ministers of the United States, be discussed and decided;" which was read as a verbal answer, and we told them they might copy it if they pleased. M. Y. refused to do so; his disappointment was apparent; he said we treated the money part of the proposition as if it had proceeded from the Directory; whereas, in fact, it did not proceed even from the Minister, but was only a suggestion from himself, as a substitute to be proposed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him that we understood that matter perfectly; that we knew the proposition was in form to be ours; but that it came substantially from the Minister. We asked what had led to our present conversation? And General Pinckney then repeated the first communication from M. X., (to the whole of which that gentleman assented,) and we observed that those gentlemen had brought no testimonials of their speaking any thing from

authority; but that, relying on the fair characters they bore, we had believed them when they said they were from the Minister, and had conversed with them, in like manner, as if we were conversing with M. Talleyrand himself; and that we could not consider any suggestion M. Y. had made as not having been previously approved of; but yet, if he did not choose to take a memorandum in writing of our answer, we had no wish that he should do so; and further, if he chose to give the answer to his proposition the form of a proposition from ourselves, we could only tell him that we had no other proposition to make, relative to any advance of money on our part; that America had sustained deep and heavy losses by the French depredations on our commerce, and that France had alleged so [many] complaints against the United States, that on those subjects we came fully prepared, and were not a little surprised to find France unwilling to hear us; and making demands upon us which could never have been suspected by our Government, and which had the appearance of our being the aggressing party. M. Y. expressed himself vehemently on the resentment of France; and complained that, instead of our proposing some substitute for the reparations demanded of us, we were stipulating certain conditions to be performed by the Directory itself; that he could not take charge of such propositions; and that the Directory would persist in its demand of those reparations which he at first stated. We answered that we could not help it; it was for the Directory to determine what course its own honor and the interests of France required it to pursue; it was for us to guard the interest and honor of our country. M. Y. observed that we had taken no notice of the first proposition, which was to know whether we were ready to make the disavowal, reparations, and explanations, concerning the President's speech. We told him that we supposed it to be impossible that either he, or the Minister, could imagine that such a proposition could require an answer; that we did not understand it as being seriously expected; but merely as introductory to the subjects of real consideration.

He spoke of the respect which the Directory required, and repeated that it would exact as much as was paid to the ancient kings. We answered that America had demonstrated to the world, and especially to France, a much greater respect for her present Government than for her former monarchy: and that there was no evidence of this disposition which ought to be required, that we were not ready to give. He said that we should certainly not be received; and seemed to shudder at the consequences. We told him, that America had made every possible effort to remain on friendly terms with France—that she was still making them, that if France would not hear us, but would make war on the United States, nothing remained for us but to regret the unavoidable necessity of defending ourselves. [Oct. 22.]

## No. 2.

OCTOBER 27, 1797.

About twelve we received another visit from M. X. He immediately mentioned the great event announced in the papers, and then said, that some proposals from us had been expected on the subject on which we had before conversed: that the Directory were becoming impatient, and would take a decided course with regard to America, if we could not soften them. We answered, that on that subject we had already spoken explicitly, and had nothing further to add. He mentioned the change in the state of things which had been produced by the peace with the Emperor, as warranting an expectation of a change in our system; to which we only replied, that this event had been expected by us, and would not, in any degree, affect our conduct. M. X. urged, that the Directory had, since this peace, taken a higher and more decided tone with respect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations should aid them, or be considered and treated as their enemies. We answered, that such an effect had already been contemplated by us, as probable, and had not been overlooked when we gave to this proposition our decided answer; and further, that we had no powers to negotiate for a loan of money; that our Government had not contemplated such a circumstance in any degree whatever; that if we should stipulate a loan, it would be a perfectly void thing, and would only deceive France, and expose ourselves. M. X. again expatiated on the power and violence of France; he urged the danger of our situation, and pressed the policy of softening them, and of thereby obtaining time. M. X. again returned to the subject of money. Said he, you do not speak to the point; it is money: it is expected that you will offer money. We said that we had spoken to that point very explicitly: we had given an answer. No, said he, you have not: what is your answer? We replied, it is no; no; not a sixpence. He again called our attention to the dangers which threatened our country, and asked, if it would not be prudent, though we might not make a loan to the nation, to interest an influential friend in our favor. He said we ought to consider what men we had to treat with; that they disregarded the justice of our claims, and the reasoning with which we might support them; that they disregarded their own colonies, and considered

themselves as perfectly invulnerable with respect to us; that we could only acquire an interest among them by a judicious application of money, and it was for us to consider, whether the situation of our country did not require that these means should be resorted to.

He said that all the members of the Directory were not disposed to receive our money; that Merlin, for instance, was paid from another quarter, and would touch no part of the *douceur* which was to come from us. We replied, that we had understood that Merlin was paid by the owners of the privateers; and he nodded an assent to the fact. He proceeded to press this subject with vast perseverance. He told us that we had paid money to obtain peace with the Algerines and with the Indians; and that it was doing no more to pay France for peace. To this it was answered, that when our Government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article; that the whole nation knew it, and was prepared to expect it as a thing of course; but that in treating with France, our Government had supposed that a proposition, such as he spoke of, would, if made by us, give mortal offence. He asked if our Government did not know that nothing was to be obtained here without money? We replied, that our Government had not even suspected such a state of things. He appeared surprised at it, and said, that there was not an American in Paris who could not have given that information. The conversation continued for nearly two hours; and the public and private advance of money was pressed and re-pressed in a variety of forms. At length M. X. said that he did not blame us; that our determination was certainly proper, if we could keep it; but he showed decidedly his opinion to be that we could not keep it. He said that he would communicate, as nearly as he could, our conversation to the Minister, or to M. Y. to be given by him to the Minister; we are not certain which. We then separated. On the 22d of October, M. Z., a French gentleman of respectable character, informed Mr. Gerry, that M. Talleyrand, Minister of Foreign Relations, who professed to be well-disposed towards the United States, had expected to have seen the American Ministers frequently in their private capacities; and to have conferred with them individually on the object of their mission; and had authorized M. Z. to make this communication to Mr. Gerry. The latter sent for his colleagues; and a conference was held with M. Z. on the subject; in which General Pinckney and General Marshall expressed their opinions, that, not being acquainted with M. Talleyrand, they could not, with propriety, call on him; but that, according to the custom of France, he might expect this of Mr. Gerry, from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d, and with M. Z. called on M. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the first introduction, M. Talleyrand began the conference. He said that the Directory had passed an *arrêt*, which he offered for perusal, in which they had demanded of the Envoys an explanation of some part, and a reparation for others, of the President's speech to Congress, of the 16th of May: he was sensible, he said, that difficulties would exist on the part of the Envoys relative to this demand; but that by their offering money, he thought he could prevent the effect of the *arrêt*. M. Z., at the request of Mr. Gerry, having stated that the Envoys have no such powers, M. Talleyrand replied, they can, in such a case, take a power on themselves; and proposed that they should make a loan. A courier arriving at this moment from Italy, and M. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and desired M. Z. to repeat to Mr. Gerry what he, M. Talleyrand, had said to him. Mr. Gerry then returned to his quarters with M. Z., took down the particulars of this interview, as before stated, sent for Gens. Pinckney and Marshall, and read it to them in the presence of M. Z., who confirmed it. Generals Pinckney and Marshall then desired M. Z. to inform M. Talleyrand that they had nothing to add to this conference, and did not wish that the *arrêt* might be delayed on their account.

OCTOBER 29.

M. X. again called upon us. He said M. Talleyrand was extremely anxious to be of service to us, and had requested that one more effort should be made to induce us to enable him to be so. A great deal of the same conversation which had passed at our former interviews was repeated. He said that, without this money, we should be obliged to quit Paris; and that we ought to consider the consequences: the property of the Americans would be confiscated, and their vessels in port embargoed. We told him that, unless there was a hope of a real reconciliation, these evils could not be prevented by us; and the little delay that we might obtain would only increase them; that our mission had induced many of our countrymen to trust their vessels in the ports of France; and if we remained at Paris, that very circumstance would increase their number; and, consequently, the injury which our countrymen would sustain, if France could permit herself so to violate her own engagements and the laws of nations. He expressed a wish, that M. Y. should see us once more. We told him that a visit from M. Y., as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we should stipulate advances of money, without previously establishing a solid and

permanent reconciliation, he might save himself the trouble of the application, because it was a subject we had considered maturely, and on which we were immovable. He parted with us, saying, if that was the case, it would not be worth while for M. Y. to come. In the evening, while General Pinckney and General Marshall were absent, M. Y. and M. X. called, and were invited by Mr. Gerry to breakfast with us the next morning.

OCTOBER 30.

Immediately after breakfast the subject was resumed. M. Y. spoke without interruption for near an hour. He said that he was desirous of making a last effort to serve us, by proposing something which might accommodate the differences between the two nations; that what he was now about to mention, had not, by any means, the approbation of the Directory; nor could M. Talleyrand undertake further than to make from us the proposition to the Directory, and use his influence for its success; that, last week, M. Talleyrand could not have ventured to have offered such propositions; but that his situation had been very materially changed by the peace with the Emperor; by that peace he had acquired, in a high degree, the confidence of the Directory, and now possessed great influence with that body; that he was also closely connected with Buonaparte and the Generals of the Army in Italy, and was to be considered as firmly fixed in his post, at least for five or six months; that, under these circumstances, he could undertake to offer, in our behalf, propositions which, before this increase of influence, he could not have hazarded. M. Y. then called our attention to our own situation, and to the force France was capable of bringing to bear upon us. He said that we were the best judges of our capacity to resist, so far as depended on our own resources, and ought not to deceive ourselves on so interesting a subject. The fate of Venice was one which might befall the United States.

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The American Ministers determined to have no more of these conferences, and broke them off altogether; but shortly after, they were approached indirectly and in a new way, as thus detailed by General Pinckney to his Government:

On the 14th of December, M. X. called on me, in order, as he said, to gain some information relative to some lands in \*\*\*, purchased by \*\*\*, for whom \*\*\*. Soon afterwards, General Marshall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, said General Marshall. I am glad of it, said M. X., for I wished to meet all of you gentlemen, to inform you that M. Y. had another message to you from M. Talleyrand. I immediately expressed my surprise at it, as M. Talleyrand, M. Y., and he, all knew our determination to have no further communication on the subject of our mission with persons not officially authorized. He replied, that determination was made six weeks ago; and it was presumed that we had changed our opinion. I said that I had not, and I did not believe my colleagues had. At that moment Mr. Gerry entered the room, and I privately acquainted him with the object of M. X.'s visit. General Marshall, Mr. Gerry, and myself, then withdrew into another room, and immediately agreed to adhere to our former resolution. M. X. was then called in; when I acquainted him, in a few words, with our determination; and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated since our arrival.

On the 20th of December, a lady, who is well acquainted with M. Talleyrand, expressed to me her concern that we were still in so unsettled a situation; but, adds she, why will you not lend us money? If you would but make us a loan, all matters would be adjusted; and, she added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the situation of the two countries at that period and the present, and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand; we think it more delicate that the offer should come from you: but M. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan; and I know that he has mentioned it to two or three others; and that you have been informed of it; and I will assure you that, if you remain here six months longer, you would not advance a single step further in your negotiations without a loan. If that is the case, I replied, we may as well go away now. Why that, possibly, said she, might lead to a rupture, which you had better avoid; for we know we have a very considerable party in America, who are strongly in our interest.

The American Envoys having repulsed all these attempts, and refused to listen longer to these intermediaries, two of them (Messrs. Pinckney and Marshall) were furnished with their passports, and left France. Mr. Gerry remained, and underwent many attempts to be inveigled into a separate negotiation, all of which failed. In the mean time, (for half a year had now been consumed in this intrigue,) the despatches of the American Ministers had become public, exciting every where odium upon the Directorial Government. The occasion required them to say something, which Talleyrand undertook, and had the "unparalleled effrontery," as expressed by Mr. Pickering, to affect ignorance of the whole affair, to demand the names of the enigmatical personages, (X., Y., Z.,) and of the "woman" that reinforced them; and to pronounce the whole the imposture of some intriguers taking advantage of the state of isolation in which the Ministers

lived to try and wheedle them out of money. Upon this disavowal, Mr. Pickering remarks:

Although the Envoys' despatches, and the facts and circumstances hereinbefore stated, cannot leave a doubt that X., as well as Y. and Z., was well known to Mr. Talleyrand, it will not be amiss to add, that on the 2d of December, X., Y., and Z., dined together at Mr. Talleyrand's, in company with Mr. Gerry; and that, after rising from the table, the money propositions, which had before been made, were repeated, in the room and in the presence, though, perhaps, not in the hearing, of Mr. Talleyrand. Mr. X. put the question to Mr. Gerry in direct terms, either "whether the Envoys would now give the *douceur*;" or "whether they had got the money ready." Mr. Gerry, very justly offended, answered positively in the negative, and the conversation dropped.

Mr. Z., who has avowed himself to be Mr. Hauteval, was the person who first made known to the Envoys the Minister's desire to confer with them individually on the objects of their mission. He it was who first introduced Mr. Gerry to Mr. Talleyrand, and served as the interpreter of their conversations; and in his letter to Mr. Talleyrand, at the close of Mr. Gerry's document, No. 35, he announces himself to be the agent of the Minister, to make communications to the Envoys.

The sensation which these details irresistibly excite is that of astonishment at the unparalleled effrontery of Mr. Talleyrand, in demanding of Mr. Gerry the names of X., Y., and Z., after Y. had accompanied him on a visit to the Minister, with whom the conversation detailed in the printed despatches then passed, and who then assured Mr. Gerry "that the information Mr. Y. had given him was just, and might always be relied on;" after Z. had in the first instance introduced Mr. Gerry to the Minister, and served as their mutual interpreter, and when the conversation between them had also been stated in despatches; and after X., Y., and Z. had all dined together with Mr. Gerry at Mr. Talleyrand's table, on rising from which X. and Y. renewed the proposition about the money! The very circumstances of Mr. Talleyrand's being continued in office after the account of these intrigues had been published to the world is a decisive proof that they were commenced and carried on with the privity and by the secret orders of the Directory. It was to accomplish the object of these intrigues that the American Envoys were kept at Paris unreceived six months after their credentials had been laid before the Directory; and it was only because they were superior to those intrigues, and that no hopes remained of wheedling or terrifying them into a compliance, that two of them were then sent away, and with marks of insult and contempt.

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The Directory at that time were: Barras, Merlin, Siéyes, Gohier, and Roger Ducos,—whose government Buonaparte soon after overthrew, and drove the two first from France, with the epithet "*rotten*" applied to them. The American Ministers were censured by some of their contemporaries for listening to these subaltern agents, but they had valid reasons for their conduct: first, to avoid the further threatened depredations on American commerce; and next, to unite their fellow-citizens at home by exposing the corruption of the (then) French Government.

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## SIXTH CONGRESS.—FIRST SESSION.

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BEGUN AT THE CITY OF PHILADELPHIA, DECEMBER 2, 1799.

### LIST OF MEMBERS.

#### SENATORS.

*New Hampshire*.—John Langdon, S. Livermore.  
*Vermont*.—Nathaniel Chipman, Elijah Paine.  
*Massachusetts*.—Samuel Dexter, Benjamin Goodhue.  
*Rhode Island*.—Theodore Foster, Ray Greene.  
*Connecticut*.—James Hillhouse, Uriah Tracy.  
*New York*.—John Laurance, J. Watson.  
*New Jersey*.—Jonathan Dayton, James Schureman.  
*Pennsylvania*.—William Bingham, James Ross.  
*Delaware*.—Henry Lattimer, William H. Willes.  
*Maryland*.—John E. Howard, James Lloyd.  
*Virginia*.—Stevens T. Mason, Wilson C. Nicholas.  
*North Carolina*.—Timothy Bloodworth, Jesse Franklin.  
*South Carolina*.—Charles Pinckney, Jacob Read.  
*Georgia*.—A. Baldwin, James Gunn.  
*Tennessee*.—Joseph Anderson, William Cocke.  
*Kentucky*.—John Brown, Humphrey Marshall.

#### REPRESENTATIVES.

*New Hampshire.*—Abiel Foster, Jonathan Freeman, William Gordon, James Sheafe.

*Vermont.*—Matthew Lyon, Lewis R. Morris.

*Massachusetts.*—Bailey Bartlett, Phanael Bishop, Silas Lee, Levi Lincoln, Samuel Lyman, Harrison G. Otis, John Read, T. Sedgwick, Samuel Sewall, George Thatcher, Joseph B. Varnum, P. Wadsworth, Lemuel Williams.

*Rhode Island.*—John Brown, C. G. Champlin.

*Connecticut.*—Jonathan Brace, Samuel W. Dana, John Davenport, William Edmond, C. Goodrich, Elizur Goodrich, Roger Griswold.

*New York.*—Theodore Bailey, John Bird, William Cooper, Lucas Elmendorph, Henry Glenn, E. Livingston, Jonas Platt, John Smith, John Thompson, Philip Van Cortlandt.

*New Jersey.*—John Condit, Franklin Davenport, James H. Imlay, Aaron Kitchell, James Linn.

*Pennsylvania.*—Robert Brown, Albert Gallatin, Andrew Gregg, John A. Hanna, Thomas Hartley, Joseph Heister, John W. Kittera, Michael Leib, Peter Muhlenberg, John Smilie, Richard Thomas, Robert Wain, Henry Woods.

*Delaware.*—James A. Bayard.

*Maryland.*—George Baer, Gabriel Christie, William Craik, John Dennis, George Dent, Joseph H. Nicholson, Samuel Smith, John C. Thomas.

*Virginia.*—Samuel J. Cabell, Matthew Clay, John Dawson, John Eggleston, Thomas Evans, Samuel Goode, Edwin Gray, David Holmes, John Geo. Jackson, Henry Lee, John Marshall, Anthony New, John Nicholas, Robert Page, Josiah Parker, Levin Powell, John Randolph, Abram Trigg, John Trigg.

*North Carolina.*—Willis Alston, Joseph Dixon, William B. Grove, Archibald Henderson, William H. Hill, Nathaniel Macon, Richard D. Spaight, Richard Stanford, David Stone, Robert Williams.

*South Carolina.*—R. G. Harper, Benj. Huger, Abraham Nott, Thomas Pinckney, John Rutledge, Thomas Sumter.

*Georgia.*—James Jones, Benjamin Taliaferro.

*Tennessee.*—William C. C. Claiborne.

*Kentucky.*—Thomas T. Davis, John Fowler.

## PROCEEDINGS IN THE SENATE.

**MONDAY, December 2, 1799.**

The first session of the sixth Congress, conformably to the constitution, commenced this day, and the Senate assembled, in their Chamber, at the city of Philadelphia.

### PRESENT:

JOHN LANGDON, from New Hampshire.

BENJAMIN GOODHUE, from Massachusetts.

THEODORE FOSTER, from Rhode Island.

JAMES HILLHOUSE and URIAH TRACY, from Connecticut.

JOHN LAURANCE and JAMES WATSON, from New York.

WILLIAM BINGHAM, from Pennsylvania.

HUMPHREY MARSHALL, from Kentucky.

JACOB READ, from South Carolina.

JAMES GUNN, from Georgia.

JOSEPH ANDERSON, appointed a Senator by the State of Tennessee, for the remainder of the term for which their late Senator, ANDREW JACKSON, was appointed; ABRAHAM BALDWIN, appointed a Senator by the State of Georgia; JOHN BROWN, appointed a Senator by the State of Kentucky; SAMUEL DEXTER, appointed a Senator by the State of Massachusetts; SAMUEL LIVERMORE, appointed a Senator by the State of New Hampshire; and WILLIAM HILL WELLS, appointed a Senator by the State of Delaware; severally produced their credentials, and took their seats in the Senate.

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The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the constitution provides, and SAMUEL LIVERMORE was chosen.

*Ordered*, That Mr. READ administer the oath required by law to the President of the Senate *pro tempore*.

The PRESIDENT administered the oath, as the law prescribes, to MESSRS. ANDERSON, BALDWIN, BROWN, DEXTER, and WELLS.

*Ordered*, That the Secretary wait upon 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 SAMUEL LIVERMORE, President of the Senate *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 SAMUEL LIVERMORE, President of the Senate *pro tempore*.

*Resolved*, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may choose, provided, that the same be furnished at the rate usual for the annual charge of such papers.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have elected THEODORE SEDGWICK their Speaker.

*Ordered*, That Messrs. READ and BINGHAM, be a 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.

The PRESIDENT communicated a letter signed John Trumbull, presenting to the Senate of the United States impressions of two prints of the American Revolution, which he had lately caused to be published; and the letter was read.

*Ordered*, That it lie on the table.

The Senate adjourned to 11 o'clock to-morrow morning.

### **TUESDAY, December 3.**

WILLIAM COCKE, appointed a Senator by the State of Tennessee, and JAMES SCHUREMAN, appointed a Senator by the State of New Jersey, in the room of John Rutherford, resigned, severally produced their credentials, were qualified, and took their seats in the Senate.

HENRY LATIMER, from the State of Delaware, and JAMES ROSS, from the State of Pennsylvania, severally attended.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have appointed a joint committee on their part, together with such committee as the Senate may appoint on theirs, 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.

Mr. READ reported from the joint committee appointed for the purpose, that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress are assembled; and that the PRESIDENT OF THE UNITED STATES, acquainted the committee, that he would meet the two Houses, this day, at 12 o'clock, in the Chamber of the House of Representatives.

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, this day addressed to both Houses of Congress, was read:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

It is with peculiar satisfaction that I meet the sixth Congress of the United States of America. Coming from all parts of the Union, at this critical and interesting period, the members must be fully possessed of the sentiments and wishes of our constituents.

The flattering prospects of abundance, from the labors of the people, by land and by sea; the prosperity of our extended commerce, notwithstanding interruptions occasioned by the belligerent state of a great part of the world; the return of health, industry, and trade, to those cities which have lately been afflicted with disease; and the various and inestimable advantages, civil and religious, which, secured under our happy frame of Government, are continued to us unimpaired, demand, of the whole American people, sincere thanks to a benevolent Deity, for the merciful dispensations of his providence.

But, while these numerous blessings are recollected, it is a painful duty to advert to the ungrateful return which has been made for them, by some of the people in certain counties of Pennsylvania, where, seduced by the arts and misrepresentations of designing men, they have openly resisted the law directing the valuation of houses and lands. Such defiance was given to the civil authority as rendered hopeless all further attempts, by judicial process, to enforce the execution of the law; and it became necessary to direct a military force to be employed, consisting of some companies of regular troops, volunteers, and militia, by whose zeal and activity, in co-operation with the judicial power, order and submission were restored, and many of the offenders arrested. Of these, some have been convicted of misdemeanors, and others, charged with various crimes, remain to be tried.

To give due effect to the civil administration of Government, and to ensure a just execution of the laws, a revision and amendment of the judiciary system is indispensably necessary. In this extensive country it cannot but happen that numerous questions respecting the interpretation of the laws, and the rights and duties of officers and citizens, must arise. On the one hand, the laws should be executed: on the other, individuals should be guarded from oppression. Neither of these objects is sufficiently assured under the present organization of the Judicial Department. I therefore earnestly recommend the subject to your serious consideration.

Persevering in the pacific and humane policy which had been invariably professed and sincerely pursued by the Executive authority of the United States, when indications were made on the part of the French Republic, of a disposition to accommodate the existing differences between the two countries, I felt it to be my duty to prepare for meeting their advances, by a nomination of ministers upon certain conditions, which the honor of our country dictated, and which its moderation had given a right to prescribe. The assurances which were required of the French Government, previous to the departure of our Envoys, have been given through their Minister of Foreign Relations, and I have directed them to proceed on their mission to Paris.<sup>[45]</sup> They have full power to conclude a treaty, subject to the constitutional advice and consent of the Senate. The characters of these gentlemen are sure pledges to their country that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

It appearing probable, from the information I received, that our commercial intercourse with some ports in the island of St. Domingo might safely be renewed, I took such steps as seemed to me expedient to ascertain that point. The result being satisfactory, I then, in conformity with the act of Congress on the subject, directed the restraints and prohibitions of that intercourse to be discontinued, on terms which were made known by proclamation. Since the renewal of this intercourse, our citizens, trading to those ports, with their property, have been duly respected, and privateering from those ports has ceased.

The act of Congress relative to the seat of the Government of the United States, requiring that, on the first Monday of December next, it should be transferred from Philadelphia to the district chosen for its permanent seat, it is proper for me to inform you that the Commissioners appointed to provide suitable buildings for the accommodation of Congress and of the President, and for the public offices of the Government, have made a report of the state of the buildings designed for those purposes in the city of Washington; from which they conclude that the removal of the seat of Government to that place, at the time required, will be practicable, and the accommodations satisfactory. Their report will be laid before you.

At a period like the present, when momentous changes are occurring, and every hour is preparing new and great events in the political world, when a spirit of war is prevalent in almost every nation with whose affairs the interests of the United States have any connection, unsafe and precarious would be our situation were we to neglect the means of maintaining our just rights. The result of the mission to France is uncertain; but, however it may terminate, a steady perseverance in a system of national defence, commensurate with our resources and the situation of our country, is an obvious dictate of wisdom; for, remotely as we are placed from the belligerent nations, and desirous as we are, by doing justice to all, to avoid offence to any, nothing short of the power of repelling aggressions will secure to our country a rational prospect of escaping the calamities of war, or national degradation. As to myself, it is my anxious desire so to execute the trust reposed in me, as to render the people of the United States prosperous and happy. I rely, with entire confidence, on your co-operation in objects equally your care; and that our mutual labors will serve to increase and confirm union among our fellow-citizens, and an unshaken attachment to our Government.

JOHN ADAMS.

UNITED STATES, *December 3, 1799.*

*Ordered*, That Messrs. ROSS, READ, and TRACY, 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.

*Ordered*, That the Speech of the PRESIDENT OF THE UNITED STATES, this day communicated to both Houses of Congress, be printed for the use of the Senate.

*Resolved*, That two Chaplains of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

The Senate proceeded to the appointment of a Chaplain to Congress on their part, and the Right Reverend Bishop WHITE was unanimously elected.

**THURSDAY, December 5.**

JONATHAN DAYTON, appointed a Senator by the State of New Jersey, and RAY GREENE, appointed a Senator by the State of Rhode Island, severally produced their credentials, were qualified, and took their seats in the Senate.

## MONDAY, December 9.

ELIJAH PAINE, from the State of Vermont, attended.

The Senate proceeded to consider the report of the committee of the draft of an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, at the opening of the session; which, being read in paragraphs, was adopted, as follows: [Pg 402]

*To the President of the United States:*

Accept, sir, the respectful acknowledgments of the Senate of the United States, for your Speech delivered to both Houses of Congress at the opening of the present session.

While we devoutly join you in offering our thanks to Almighty God, for the return of health to our cities, and for the general prosperity of the country, we cannot refrain from lamenting that the arts and calumnies of factious, designing men, have excited open rebellion a second time in Pennsylvania; and thereby compelled the employment of military force to aid the civil authority in the execution of the laws. We rejoice that your vigilance, energy, and well-timed exertions, have crushed so daring an opposition, and prevented the spreading of such treasonable combinations. The promptitude and zeal displayed by the troops called to suppress this insurrection, deserve our highest commendation and praise, and afford a pleasing proof of the spirit and alacrity with which our fellow-citizens are ready to maintain the authority of our excellent Government.

Knowing, as we do, that the United States are sincerely anxious for a fair and liberal execution of the Treaty of Amity, Commerce, and Navigation, entered into with Great Britain, we learn, with regret, that the progress of adjustment has been interrupted, by a difference of opinion among the commissioners. We hope, however, that the justice, the moderation, and the obvious interests of both parties, will lead to satisfactory explanations, and that the business will then go forward to an amicable close of all differences and demands between the two countries. We are fully persuaded that the Legislature of the United States will cheerfully enable you to realize your assurances of performing, on our part, all engagements under our treaties, with punctuality, and the most scrupulous good faith.

When we reflect upon the uncertainty of the result of the late mission to France, and upon the uncommon nature, extent, and aspect, of the war now raging in Europe—which affects materially our relations with the powers at war, and which has changed the condition of their colonies in our neighborhood—we are of opinion, with you, that it would be neither wise nor safe to relax our measures of defence, or to lessen any of our preparations to repel aggression.

Our inquiries and attention shall be carefully directed to the various other important subjects which you have recommended to our consideration; and from our experience of your past administration, we anticipate, with the highest confidence, your strenuous co-operation in all measures which have a tendency to promote and extend our national interests and happiness.

SAMUEL LIVERMORE,

*President of the Senate, pro tempore.*

*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. ROSS 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.

Whereupon, *Resolved*, That the Senate will, to-morrow, at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

## TUESDAY, December 10.

Agreeably to the resolution of yesterday, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the President of the Senate, in their name, presented the Address then agreed to.

To which the PRESIDENT OF THE UNITED STATES made the following reply:

*Gentlemen of the Senate:*

I thank you for this Address. I wish you all possible success and satisfaction in your deliberations on the means which have a tendency to promote and extend our national interests and happiness; and I assure you that, in all your measures directed to those great objects, you may, at all times, rely with the highest confidence on my cordial co-operation.

The praise of the Senate, so judiciously conferred on the promptitude and zeal of the troops, called to suppress the insurrection, as it falls from so high authority, must make a deep impression, both as a terror to the disobedient, and an encouragement of such as do well.

JOHN ADAMS.

UNITED STATES, *December 10, 1799.*

The Senate returned to their own Chamber, and proceeded to the consideration of Executive business.

### **WEDNESDAY, December 11.**

NATHANIEL CHIPMAN, from the State of Vermont, attended.

### **THURSDAY, December 12.**

JAMES LLOYD, from the State of Maryland, attended.

### **TUESDAY, December 17.**

Mr. TRACY, from the committee to whom was referred the letter signed John Trumbull, of 20th September, 1798, reported a resolution, which was adopted, as follows:

*Resolved*, That the Senate of the United States accept the prints presented by John Trumbull, Esq., and that their President be requested to inform him, that while they respect the delicacy which dictated the *manner* of offering this elegant present, they consider their country honored by the genius of one of her sons, by whom these prints are happily designed, to perpetuate two memorable scenes in her progress to independence, and to preserve in lively recollection the names and virtues of heroes who fell in her defence.

### **THURSDAY, December 19.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

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The letter herewith transmitted will inform you that it has pleased Divine Providence to remove from this life our excellent fellow-citizen GEORGE WASHINGTON, by the purity of his character, and a long series of services to his country, rendered illustrious through the world. It remains for an affectionate and grateful people, in whose hearts he can never die, to pay suitable honors to his memory.

JOHN ADAMS.

UNITED STATES, *December 19, 1799.*

The Message and letter were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House having received intelligence of the death of their highly-valued fellow-citizen, General GEORGE WASHINGTON, and sharing the universal grief this distressing event must produce, have resolved that a joint committee be appointed, to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen; and, having appointed a committee on their part, desire the concurrence of the Senate.

The Senate proceeded to consider the foregoing resolution of the House of Representatives; whereupon,

*Resolved*, That they do concur therein, and that Messrs. DAYTON, BINGHAM, DEXTER, GUNN, LAURANCE, TRACY, and READ, be the committee on the part of the Senate.

*Resolved*, That the Senate will wait on the PRESIDENT OF THE UNITED STATES, to condole with him on the distressing event of the death of General GEORGE WASHINGTON; and that a committee be appointed to prepare, for that occasion, an Address to the PRESIDENT OF THE UNITED STATES, expressive of the deep regret of the Senate; and that this committee consist of Messrs. DEXTER, ROSS, and READ.

*Resolved*, That the chairs in the Senate Chamber be covered, and the room hung with black, and that each member, and the officers of the Senate, go into mourning, by the usual mode of wearing a crape round the left arm, during the session.

### **MONDAY, December 23.**

TIMOTHY BLOODWORTH, from the State of North Carolina, and JOHN E. HOWARD, from the State of Maryland, severally attended.

Mr. DEXTER, from the committee appointed for the purpose on the 18th instant, reported the draft of an Address to the PRESIDENT OF THE UNITED STATES, on the death of General GEORGE WASHINGTON;

which being read in paragraphs, was adopted, as follows:

*To the President of the United States:*

The Senate of the United States respectfully take leave, sir, to express to you their deep regret for the loss their country sustains in the death of General GEORGE WASHINGTON.

This event, so distressing to all our fellow-citizens, must be peculiarly heavy to you, who have long been associated with him in deeds of patriotism. Permit us, sir, to mingle our tears with yours; on this occasion it is manly to weep. To lose such a man, at such a crisis, is no common calamity to the world. Our Country mourns her Father. The Almighty Disposer of human events has taken from us our greatest benefactor and ornament. It becomes us to submit with reverence to Him who "maketh darkness his pavilion."

With patriotic pride, we review the life of our WASHINGTON, and compare him with those of other countries, who have been pre-eminent in fame. Ancient and modern names are diminished before him. Greatness and guilt have too often been allied; but his fame is whiter than it is brilliant. The destroyers of nations stood abashed at the majesty of his virtues. It reprov'd the intemperance of their ambition, and darkened the splendor of victory. The scene is closed, and we are no longer anxious lest misfortune should sully his glory; he has travelled on to the end of his journey, and carried with him an increasing weight of honor; he has deposited it safely, where misfortune cannot tarnish it, where malice cannot blast it. Favored of heaven, he departed without exhibiting the weakness of humanity. Magnanimous in death, the darkness of the grave could not obscure his brightness.

Such was the man whom we deplore. Thanks to God! his glory is consummated; WASHINGTON yet lives—on earth in his spotless example—his spirit is in heaven.

Let his countrymen consecrate the memory of the heroic General, the patriotic Statesman, and the virtuous Sage; let them teach their children never to forget that the fruit of his labors and his example are their inheritance.

SAMUEL LIVERMORE,

*President of the Senate, pro tempore.*

*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. DEXTER reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he had acquainted them that he would receive the Address of the Senate immediately, at his own house.

Whereupon, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the PRESIDENT of the Senate, in their name, presented the Address this day agreed to.

To which the PRESIDENT OF THE UNITED STATES made the following reply:

*Gentlemen of the Senate:*

I receive with the most respectful and affectionate sentiments, in this impressive address, the obliging expressions of your regard for the loss our country has sustained in the death of her most esteemed, beloved, and admired citizen.

In the multitude of my thoughts and recollections on this melancholy event, you will permit me only to say, that I have seen him in the days of adversity in some of the scenes of his deepest distress and most trying perplexities; I have also attended him in his highest elevation, and most prosperous felicity, with uniform admiration of his wisdom, moderation, and constancy.

Among all our original associates in that memorable League of the Continent in 1774, which first expressed the sovereign will of a free nation in America, he was the only one remaining in the General Government. Although, with a constitution more enfeebled than his, at an age when he thought it necessary to prepare for retirement, I feel myself alone, bereaved of my last brother, yet I derive a strong consolation from the unanimous disposition which appears, in all ages and classes, to mingle their sorrows with mine, on this common calamity to the world.

The life of our WASHINGTON cannot suffer by a comparison with those of other countries who have been most celebrated and exalted by fame. The attributes and decorations of royalty could have only served to eclipse the majesty of those virtues which made him, from being a modest citizen, a more resplendent luminary. Misfortune, had he lived, could hereafter have sullied his glory only with those superficial minds, who, believing that characters and actions are marked by success alone, rarely deserve to enjoy it. Malice could never blast his honor, and envy made him a singular exception to her universal rule. For himself, he had lived enough to life, and to glory. For his fellow-citizens, if their prayers could have been answered, he would have been immortal. For me, his departure is at a most unfortunate moment. Trusting, however, in the wise and righteous dominion of

Providence over the passions of men, and the results of their councils and actions, as well as over their lives, nothing remains for me but humble resignation.

His example is now complete, and it will teach wisdom and virtue to magistrates, citizens, and men, not only in the present age, but in future generations, as long as our history shall be read. If a Trajan found a Pliny, a Marcus Aurelius can never want biographers, eulogists, or historians.

JOHN ADAMS.

UNITED STATES, *December 23, 1799.*

The Senate returned to their own Chamber.

A message from the House of Representatives informed the Senate that the joint committee appointed on the part of the House of Representatives, on the 19th instant, on the receipt of the intelligence of the death of General GEORGE WASHINGTON, having made report to that House, they have agreed to sundry resolutions thereupon, in which they desire the concurrence of the Senate.

Mr. DAYTON, from the joint committee appointed the 19th instant, on the part of the Senate, on the receipt of the intelligence of the death of General GEORGE WASHINGTON, reported in part, and the report was agreed to. Whereupon,

The Senate took into consideration the resolutions of the House of Representatives, of this day, on the report of the joint committee on the subject above mentioned, and which resolutions are as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That a marble monument be erected by the United States in the Capitol, at the City of Washington; and that the family of General WASHINGTON be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

*And be it further resolved,* That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General GEORGE WASHINGTON, on Thursday, the 26th instant; and that an oration be prepared at the request of Congress, to be delivered before both Houses on that day; and that the President of the Senate, and Speaker of the House of Representatives, be desired to request one of the members of Congress to prepare and deliver the same.

*And be it further resolved,* That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

*And be it further resolved,* That the PRESIDENT OF THE UNITED STATES be requested to direct a copy of these resolutions to be transmitted to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence, and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution.

*Resolved,* That the PRESIDENT OF THE UNITED STATES be requested to issue a proclamation, notifying to the people throughout the United States, the recommendation contained in the third resolution.

*Resolved, unanimously,* That the Senate do concur in the aforesaid resolutions.

### **THURSDAY, December 26.**

In conformity to the resolve of the 23d instant, the Senate went in procession to the German Lutheran Church, where was delivered an oration in honor of the memory of General GEORGE WASHINGTON. After which, they returned to their own Chamber, and adjourned.

### **FRIDAY, December 27.**

*Resolved,* That the thanks of the Senate be communicated, through their President, to General HENRY LEE, for the eloquent and impressive oration to the memory of General GEORGE WASHINGTON, which he prepared and delivered at the request of Congress.

*Resolved,* That the Secretary be directed to apply to General LEE for a copy of the same.

### **MONDAY, December 30.**

THOMAS JEFFERSON, Vice President of the United States, and President of the Senate, attended.

JESSE FRANKLIN, appointed a Senator by the Legislature of the State of North Carolina, produced his credentials, was qualified, and took his seat in the Senate.

The VICE PRESIDENT laid before the Senate a letter signed John Cleves Symmes, stating the reasons why Congress should be induced to receive of him the purchase money for certain public lands at the contract price; and the letter was read.

Mr. LIVERMORE laid before the Senate a letter signed Henry Lee, in answer to their vote of thanks of the 27th instant, and request of a copy of his oration; which was read.

Mr. DAYTON, from the joint committee appointed the 19th instant, on the intelligence of the death of General GEORGE WASHINGTON, made a further report, in part, and it was agreed that the consideration thereof be postponed.

## **TUESDAY, December 31.**

A message from the House of Representatives informed the Senate that the House have passed "Resolutions directing further measures in honor of the memory of General George Washington," in which they desire the concurrence of the Senate.

The resolutions were read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That it be recommended to the people of the United States to assemble on the 22d day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General GEORGE WASHINGTON, by suitable eulogies, orations, and discourses, or by public prayers.

*And be it further resolved,* That the PRESIDENT be requested to issue a proclamation for the purpose of carrying the foregoing resolution into effect.

Whereupon, *Resolved,* That the Senate do concur in the said resolution.

## **FRIDAY, January 3, 1800.**

WILSON CARY NICHOLAS, appointed a Senator by the Legislature of the State of Virginia, to supply the vacancy occasioned by the death of Henry Tazewell, Esq., produced his credentials, was qualified, and took his seat in the Senate.

## **TUESDAY, January 7.**

STEPHENS THOMPSON MASON, from the State of Virginia, attended.

## **WEDNESDAY, January 8.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

In compliance with the request in one of the resolutions of Congress, of the 21st of December last, I transmitted a copy of those resolutions, by my Secretary, Mr. Shaw, to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence in the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution. As the sentiments of that virtuous lady, not less beloved by this nation than she is at present greatly afflicted, can never be so well expressed as in her own words, I transmit to Congress her original letter.

It would be an attempt of too much delicacy to make any comments upon it; but there can be no doubt that the nation at large, as well as all the branches of the Government, will be highly gratified by any arrangement which may diminish the sacrifice she makes of her individual feelings.

JOHN ADAMS.

UNITED STATES, *January 8, 1800.*

The letter is as follows:

SIR: While I feel with keenest anguish the late dispensation of Divine Providence, I cannot be insensible to the mournful tributes of respect and veneration which are paid to the memory of my dear deceased husband; and, as his best services, and most anxious wishes, were always devoted to the welfare and happiness of his country, to know that they were truly appreciated and gratefully remembered, affords no inconsiderable consolation.

Taught by the great example which I have so long had before me, never to oppose my private wishes to the public will, I must consent to the request made by Congress, which you have had the goodness to transmit to me; and, in doing this, I need not, I cannot, say what a sacrifice of individual feeling I make to a sense of public duty.

With grateful acknowledgments, and unfeigned thanks, for the personal respect and evidences of condolence, expressed by Congress and yourself, I remain, very respectfully, sir, your most obedient, humble servant.

MARTHA WASHINGTON.

The PRESIDENT OF THE UNITED STATES.

*Ordered,* That the Message and letter be referred to the joint committee appointed on the 19th

December last, to report suitable measures in honor of the memory of General GEORGE WASHINGTON, deceased.

### THURSDAY, January 23.

CHARLES PINCKNEY, appointed a Senator by the State of South Carolina, produced his credentials, was qualified, and took his seat in the Senate.

#### *Disputed Presidential Elections.*

On motion, of Mr. Ross, that it be

*Resolved*, That a committee be appointed to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice President of the United States, and for determining the legality or illegality of the votes given for those officers in the different States:

A motion was made to amend the motion by adding, "and that the committee be authorized to report by bill or otherwise."

Mr. BROWN, of Kentucky, was of opinion that this was a subject on which Congress had no right to legislate. When the constitution undertook to make provisions on a subject, if they were found incomplete, or defective, they must be remedied by recommending an amendment to the constitution. He wished the gentleman who had made this motion would pay further attention to the subject, and believed he would find that if any thing was to be done it must be done by proposing an amendment to the constitution.

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Mr. Ross said, that the constitution had certainly made no provision on this subject. It only directed that after the votes were received, &c., the President of the Senate should, in the presence of the Senate and the House of Representatives, open the certificates, and the votes should be counted. Suppose, said he, persons should claim to be Electors, who had never been *properly* appointed, should their vote be received? Suppose they should vote for a person to be President who had not the age required by the constitution, or who had not been long enough a citizen of the United States, or for two persons who were both citizens of the same State—such cases might happen and were very likely to happen, and is there no remedy? What a situation would the country be in if such a case was to happen! He thought it their duty to make provision for it, and he believed a law was sufficient.

Mr. C. PINCKNEY, of South Carolina, thought it a very dangerous practice to endeavor to amend the constitution by making laws for the purpose. The constitution was a sacred deposit, put into their hands; they ought to take great care not to violate or destroy the essential provisions made by that instrument. He remembered very well that in the Federal Convention great care was used to provide for the election of the President of the United States, independently of Congress; to take the business as far as possible out of their hands. The votes are to be given by Electors appointed for that express purpose, the Electors are to be *appointed* by each State, and the whole direction as to the manner of their appointment is given to the State Legislatures. Nothing was more clear to him than that Congress had no right to meddle with it at all; as the whole was intrusted to the State Legislatures, they must make provision for all questions arising on the occasion.

Mr. DEXTER, of Massachusetts, did not feel himself at all in doubt as to the right of the Legislature to make such provisions on this subject as appeared to be necessary. It was directed by the constitution that a President should be appointed, that he should be of not less than thirty-five years of age, that he should have been at least fourteen years a citizen of the United States, &c. The proceedings in the election of a President may be defective in all these particulars, and can it be supposed that there is no way to correct them? The constitution is not silent on this head; among the powers given to Congress in the 5th section is this, "to pass all laws 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 officer thereof." The law now proposed appears to be necessary to carry into effect the power of appointing the President; it is, therefore, clearly constitutional.

Mr. LIVERMORE, of New Hampshire never felt less doubt on any subject than the one now under consideration: the constitution has given many directions as to the appointment of the President, some of which he read. It is possible (said Mr. L.) that gentlemen can suppose all these may be violated and disregarded, and yet that it is nobody's business to interpose and make provision to prevent it? He trusted the honorable Senate would agree to the resolution to appoint a committee for that purpose.

Mr. BALDWIN, of Georgia, expressed his regret that the mover of this resolution had not thought proper to bring forward a subject so new and important, in the form commonly used in parliamentary assemblies, by a single proposition, viz: "that it is expedient that further provision be made respecting disputed votes for President and Vice President of the United States." It was manifest from the debate that several different questions had been under consideration at the same time, and different gentlemen were in fact directing their remarks to different questions.

The first question was, the one he had just mentioned, whether there was so great a defect in the present provisions, which exist on this subject, as to render further provisions necessary?

The second is, if further provisions are necessary, must they be made by amendment to the constitution? or,



Thirdly, whether they can be made by law?

He must say for himself, that he did not agree that the present provisions on this subject were so defective and absurd as had been represented. His general respect for those who had gone before him in this House, and especially for the venerable assembly of the most experienced statesmen of the country by whom the constitution had been formed, forbade him to entertain the belief that the subject, which is the strong feature that characterizes this as an Elective Government, could have been till now so entirely out of sight and neglected. Gentlemen appeared to him, from their observations, to forget that the constitution in directing *Electors* to be appointed throughout the United States equal to the whole number of the Senators and Representatives in Congress, for the express purpose of intrusting this constitutional branch of power to them, had provided for the existence of as respectable a body as Congress, and in whom the constitution on this business has more confidence than in Congress. Experience had proved that a more venerable selection of characters could not be made in this country than usually composed that electoral body. And what are the questions which can arise on the subject intrusted to them to which they are incompetent, or to which Congress is so much more competent? The questions which present themselves seem to be:

1. Those which relate to the elections, returns, and qualifications, of their own members. Shall these be taken away from that body, and submitted to the superior decision and control of Congress, without a particle of authority for it from the constitution?

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2. The legality or constitutionality of the different steps of their own proceedings, as, whether they vote for two persons both of the same State; whether they receive votes for a person under thirty-five years of age, or one who has not been fourteen years a citizen of the United States, &c. It is true they, as well as any other constitutional branch of this Government acting under that instrument, may be guilty of taking unconstitutional or corrupt steps, but they do it at their peril. Suppose either of the other branches of the Government, the Executive, or the Judiciary, or even Congress, should be guilty of taking steps which are unconstitutional, to whom is it submitted, or who has control over it, except by impeachment? The constitution seems to have equal confidence in all the branches on their own proper ground, and for either to arrogate superiority, or a claim to greater confidence, shows them in particular to be unworthy of it, as it is in itself directly unconstitutional.

3. The authentication of their own acts. This would seem to be as complete in them, as in either of the other branches of the Government. Their own authentication of their act finishes the business intrusted to them. It is true this must be judged of by the persons who are concerned in carrying it into execution; as in all laws and official acts under this Government, they to whom they are directed, and who are to be bound by them, must judge, and judge at their peril, whether they are duly authenticated or whether they are only a forgery.

If this be the just view of the subject, (and he could see no other which did not involve inextricable difficulties,) it leaves no possible question for the Senators and Representatives, when met together to count the votes agreeably to the constitution, but to judge of the authentication of the act of the Electors, and then to proceed and count the votes as directed. If this body of the Electors of all the States had been directed by the constitution to assemble in one place, instead of being formed into different Electoral colleges, he took it for granted none of the questions on which this resolution has been brought forward, would have occurred; every one would have acknowledged that they were to be settled in that assembly. It having been deemed more safe by the constitution to form them into different Electoral colleges, to be assembled in the several States, does not at all alter the nature or distinctness of their powers, or subject them any more to the control of the other departments of the Government.

He observed further on the other points to which gentlemen had spoken, that if such radical and important changes were to be made on this subject, as seemed to be in contemplation under this resolution, he thought they must be made by proposing an amendment to the constitution to that effect; and that they could not be made by law, without violating the constitution. He did not agree with the gentleman from Massachusetts, (Mr. DEXTER,) that the clause at the close of the 8th section of the constitution, which gives to Congress power to pass all laws necessary and proper to carry into effect the foregoing powers of that section, and all other powers vested by the constitution in the Government of the United States, or in any department or officer thereof, could be extended to this case: that speaks of the use of the powers vested by the constitution—this resolution relates to the formation of a competent and essential part of the Government itself: that speaks of the movements of the Government after it is organized—this relates to the organization of the Executive branch, and is therefore clearly a constitutional work, and to be done, if at all, in the manner pointed out by the constitution, by proposing an article of amendment to the constitution on that subject. His own opinion, however, was, what he had before stated, that the provisions on this subject were already sufficient; that all the questions which had been suggested were as safely left to the decision of the assemblies of Electors, as of any body of men that could be devised; and that the members of the Senate and of the House of Representatives, when met together in one room, should receive the act of the Electors as they would the act of any other constitutional branch of the Government, to judge only of its authentication, and then to proceed to count the votes, as directed in the second article of the constitution.

The further consideration of the subject was postponed.

**FRIDAY, January 24.**

### ***Disputed Presidential Elections.***

The Senate resumed the consideration of the motion made yesterday, that a committee be appointed to consider whether any, and what, provisions ought to be made by law for deciding disputed elections of President and Vice President of the United States, and for determining the legality or illegality of the votes given for those officers in the different States, and that the committee be authorized to report by bill or otherwise; and the motion as amended was adopted; and,

*Ordered*, That Messrs. ROSS, LAURANCE, DEXTER, PINCKNEY, and LIVERMORE, be the committee.

### **THURSDAY, February 20.**

#### ***Disputed Presidential Elections.***

The Senate resumed the consideration of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion to strike out of the first section of the bill the following words:

Together with the Chief Justice of the United States, or if he be absent from the Seat of Government or unable to attend, then with the next senior Judge of the Supreme Court of the United States, who may be present and able to attend.

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It passed in the negative—yeas 11, nays 19, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

NAYS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Greene, Gunn, Hillhouse, Howard, Latimer, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

On motion to strike out these words from the 1st section: "to choose by ballot in each House six members," and in lieu thereof to insert "to draw by lot in each House — members:"

It was determined in the negative—yeas 9, nays 18, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Langdon, Marshall, Mason, and Nicholas.

NAYS.—Messrs. Chipman, Dayton, Dexter, Foster, Franklin, Goodhue, Greene, Gunn, Hillhouse, Latimer, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, and Wells.

*Ordered*, That the further consideration of the bill be postponed.

### **FRIDAY, February 21.**

#### ***Eulogium on General Washington.***

*Resolved*, That the Senate will, to-morrow, at half past 12 o'clock, meet at the Senate Chamber, and from thence walk in procession to the German Calvinist Church in Race street, to hear the eulogium pronounced on the character of General WASHINGTON.

### **MONDAY, February 24.**

#### ***Disputed Presidential Elections.***

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

On motion, to amend the bill, section 5th, line 7th, so as to provide that the proceedings of the committee be held in public, by striking out the words "with closed doors," and inserting, "in the Chamber of the House of Representatives, with open doors," in lieu thereof:

It passed in the negative—yeas 8, nays 16, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, and Nicholas.

NAYS.—Messrs. Bingham, Chipman, Foster, Goodhue, Greene, Hillhouse, Howard, Latimer, Laurance, Livermore, Marshall, Paine, Read, Ross, Tracy, and Wells.

And, after progress, the further consideration of the bill was postponed.

### **WEDNESDAY, February 26.**

#### ***Breach of Privilege.***

#### **DUANE AND THE AURORA.**

A motion was made, by Mr. TRACY, that it be

*Resolved*, That the Committee of Privileges be, and they are hereby, directed to inquire who is the editor of the newspaper printed in the city of Philadelphia, called the General Advertiser, or Aurora, and by what means the editor became possessed of the copy of a bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, which was printed in the aforesaid newspaper, published Wednesday morning, the 19th instant, February, and by what authority he published the same; and by what authority the editor published in the same paper that the honorable Mr. Pinckney, a Senator from South Carolina, and a member of the committee who brought before the Senate the bill aforesaid, had never been consulted on the subject. And generally to inquire the origin of sundry assertions in the same paper, respecting the Senate of the United States, and the members thereof, in their official capacity, and why the same were published; and make report to the Senate. And that the said committee have power to send for persons, papers, and records, relating to the subject committed to them.

*Ordered*, That this motion lie for consideration.

The Senate resumed the second reading of the bill prescribing the mode of deciding disputed elections of the President and Vice President of the United States; and after progress, adjourned.

### **WEDNESDAY, March 5.**

#### ***Breach of Privilege.***

The Senate took into consideration the motion made on the 26th of February last, that an inquiry be had relative to a publication in a newspaper called the "Aurora," on the 19th of the said month; and agreed to insert after these words: "and by what authority he published the same," line 7th, the words "as having passed the Senate."

Mr. COCKE said, he would not suffer a measure of this kind to pass through the Senate, while he had the honor of a seat in that body, without manifesting the most determined opposition. What did the gentleman mean by avoiding the general principle? did he mean to get the consent of the Senate, acting in the character of an inquest, to an acknowledgment that the editor of the Aurora had been guilty of a crime, without any inquiry whether the publication in itself was criminal, or whether if it was criminal, the Senate, as an independent and a single branch of the Legislature, had of itself the power to define the crime and inflict the punishment? He could not consent to an admission of this kind; the constitution gave them no such authority; the privileges of the House and of the members did not extend beyond the walls of the Chamber in which they were sitting, in cases of comment upon their official proceedings. He had held these opinions from the time the motion was first laid before the House, and thought that the consequences which would result from pursuing the subject, would be more dangerous to the honor and dignity of the Senate, which it was meant to defend, than all the attacks which all the public newspapers could make during their existence, inasmuch as an actual assumption of power was far more detrimental to their character than any unfounded charge of tyranny could be. He believed that the more the subject was agitated the more would be the clamor against the Senate, and in the end they would be forced to abandon the measure for want of ability to carry it through; he therefore concluded it would be best to give it up in the first instance, and save both their own time and the public money. He would move to postpone the consideration of the motion till the first Monday in December next.

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Mr. TRACY did not wish to hurry on the decision, but as the resolution had been several days upon the table, he believed the House might now decide on the propriety of referring the business to the Committee of Privileges, as this procedure would not be final; or, if the House was not ready to vote immediately, the discussion might proceed and time would be given for coming to the conclusion.

Mr. C. PINCKNEY.—This subject involves the important questions, What are the privileges of Congress, and how far are they defined by the constitution; and what is the liberty of the press, as it respects those privileges? These are subjects of great consequence, and such as I suppose the House will touch with much caution. My name having been mentioned in the body of the original motion, I feel myself particularly called upon to deliver my sentiments fully, as well with respect to the manner in which it is mentioned, as to the limitations of the constitution, and what ought, in my judgment, to be the conduct of the Senate, on this very interesting occasion.

In considering, first, what are the privileges of Congress, and how far they are defined by the constitution, I am naturally led into a repetition of arguments I have found myself too frequently obliged to use on this floor; that is, to entreat the House to recollect the nature of our federal system; that all powers not expressly and specifically delegated to Congress, are reserved to the States and people: and particularly to remember, that where any powers are so expressly defined as the privileges of Congress are, that it is our duty very carefully to consider the consequences, before we take a step that may, by subsequent or cool reflection, be found to exceed them; that the privileges of Congress, as limited by the constitution, have been very deliberately considered by men whose opinions were not swayed by party, and whose impartial situation gave the best opportunity of judging; that having before them the example of the unlimited privileges of the British Parliament, and colonial assemblies, or councils, assuming to themselves the right of such

privileges; that knowing the consequences of undefined powers, and being well aware what privileges were necessary to prevent an interruption of the undisturbed situation a member should enjoy, during the time he is engaged on public affairs, after much thought they had defined them in the manner fixed by the constitution. No man, who is a friend to order, will justify what properly deserves to be termed the licentiousness of the press. When, instead of candidly reviewing the arguments or public conduct of a member of the Legislature, or officer of the Government, it meanly descends to private scandal, instead of being defended, it should be met with contempt and disdain. Abuse is the price that public men, and frequently those of the most ability, are obliged to pay; and it is seldom, in countries where the press is free, and strong political parties are known to exist, that it is much noticed. Men of elevated minds, who feel themselves strong in the powers of reasoning, will always yield to their feeble opponents the miserable resort of abuse; it is the surest test of imbecility, and the public, who generally think right, seldom hesitate to suppose it equally the proof of weakness and of malice.

I shall consider this subject from its importance, and the peculiar manner in which it has been introduced, as open to such animadversions as are within the rules of order and are consistent with decorum. I shall probably advance doctrines that will be termed as extraordinary here, but it shall be done with the good manners I have ever considered as the criterion of good breeding, and which self-respect will forbid my violating. It is the first question respecting the privileges of the Senate that I have ever been present at, and, as it involves the liberty of the press, it is only necessary for me to mention these subjects, to show the House the propriety of our well-examining every line of the resolution on your table, before we adopt it.

I feel myself particularly called upon to give my opinion fully on this subject, because my name is inserted in the body of the resolution, and, to those unacquainted with the circumstances, it might have the appearance of being done at my request; whereas it was not only done without my knowledge, but is contrary to my wish, and opinion of the power of the House, and of the mode in which such inquiries should be conducted; that even if the House had the power, the remarks and information contained in the paper are not sufficiently important to attract its notice, particularly as they had been completely silent on the abuse of the Senate in the Gazette of the United States, respecting the stopping of the enlistments for the army; that the inquiry might lead to steps not within the defined privileges of the Senate, and that, as these may involve the liberty of the press, and the right of a citizen to publish the debates and public acts of this House, those who were opposed to what they might consider unconstitutional restrictions, ought to meet the question at the threshold, and contest it in every stage. I shall therefore feel it peculiarly my duty to do so, and, after having stated to you my objections to any interference at all on this subject, to move the postponement of the resolution, or to amend it in some way that shall place on the journals my opinions of the extent of your privileges, and reasons for objecting to the mode of inquiry proposed by the gentleman from Connecticut.

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In examining the constitution we find, that to prevent any attempt being made on the part of either branch of Congress to define their own privileges, and exercise the same, as occasion or circumstances may, in their opinions, require, and to remove all doubt as to the extent and exercise of the privileges they are to enjoy, the constitution has positively and expressly limited and defined the same, by declaring—

"That each House shall be the judge of the elections, returns, and qualifications of its own members; that they may compel the attendance of absent members, in such manner, and under such penalties, as each House may provide; that they may determine the rules of their proceedings, punish the members for disorderly behavior, and, with the concurrence of two-thirds, expel a member. That the members of both Houses shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the attendance at their respective Houses, and in going to and returning from the same, and, for any debate or speech in either House, shall not be questioned in any other place."

This is all that is said on the subject of privilege; and surely no words can be more explicit, nor any subject more clearly defined. The powers they are to exercise, and the persons and cases they are to operate upon, are all distinctly marked and named; nor is there a word or a sentence in the whole that can by any possible construction be made to mean that for any libels or printed attack on the public conduct or opinions of either House of Congress, or of any of its members, that their privilege shall extend to ordering the persons charged with the offence before them, and imprisoning them at their will. The constitution wisely determined, that they should possess all the powers necessary to their formation, and the undisturbed order of their proceedings, and the safety of their members from arrest, during their attendance, and going to, and returning from Congress; but it at the same time recollected, that it is the nature of our Government to invite examinations of public measures, that it is the duty of our citizens to make these inquiries, to watch over the proceedings of our public bodies, and if they find them departing from the constitution, or exceeding their authority, instantly to announce it. That our constitution supposes no man, or body of men, to be infallible, but considers them all as mere men, and subject to all the passions, and frailties, and crimes, that men generally are, and accordingly provides for the trial of such as ought to be tried, and leaves the members of the Legislature, for their proceedings, to be amenable to their constituents and to public opinion; it however particularly guards the right of the citizens to investigate their measures; and in case of a false or libellous attack, it intends, if the power of collecting juries is fairly exercised, to provide a just and impartial tribunal to decide between them, to act upon oath, and who ought not to be the particular friends or enemies of either. On this subject I shall hereafter more fully remark, and at

present take some little notice of an observation that has been made, and which, with the subject of privileges, should be considered as preliminary to those that are necessary on the liberty of the press. It is, that if Congress possessed the power contemplated by this resolution, it was their duty to pass some legislative act respecting it, declaring the manner in which it should be executed, and designating the officer or officers who were to do so; that the people would then know the manner in which offenders were to be summoned or apprehended, or brought before them; but this should have been done when no particular case had occurred, and was before them, and that no proceeding of privileges in any case like the present, ought to be had until such act was passed, and the mode of proceedings clearly ascertained; that if the power was given by the constitution, until Congress had legislated upon it, in the manner above mentioned, it was extremely improper for either branch to attempt to exercise it; that a judiciary department was erected by the constitution, but that Congress was obliged to legislate upon it, and detail its duties, and provide for the appointment of officers to execute them, before the powers of that department could be properly exercised: and that if Congress possessed the power some gentlemen contend for on this point, they must previously legislate on it in the same manner. On this subject there can be no doubt of the propriety of this objection, if Congress possessed the power; and their never having passed such a law is a strong proof, that whatever opinions either branches may have entertained, that both did not suppose they possessed this power, or certainly they would have legislated upon it. If they did not doubt, or were not sure they did not possess this authority, why did they not legislate on it at the time they did on all such other parts of their privileges and powers as they conceived they had authority to act on. They (that is, Congress) passed an act on the subject of the election of members of the House of Representatives, of which that House are the sole judges; each House detailed, in a particular manner, their rules and modes of proceeding—this was all that was necessary to be detailed. The remainder of the clause respecting privileges is so express on the subjects of privilege from arrest, government of members, and expulsion, that every civil officer in the United States, and every man who has the least knowledge, cannot misunderstand them. I assert, that it was the design of the constitution, and that not only its spirit, but letter, warrant me in the assertion, that it never was intended to give Congress, or either branch, any but specified, and those very limited, privileges indeed. They well knew how oppressively the power of undefined privileges had been exercised in Great Britain, and were determined no such authority should ever be exercised here. They knew that in free countries very few privileges were necessary to the undisturbed exercise of legislative duties, and those few only they determined that Congress should possess; they never meant that the body who ought to be the purest, and the least in want of shelter from the operation of laws equally affecting all their fellow-citizens, should be able to avoid them; they therefore not only intended, but did confine their privileges within the narrow limits mentioned in the constitution. And here, sir, let me ask, are not these privileges all that are necessary? They have complete authority to keep order and decorum within their own chamber, to clear the galleries if an audience are unruly, and to punish their own members, to take care that no arrests, except for treason, felony, or breach of the peace, shall keep their members from their duty, and for all libellous attacks or misrepresentations the laws are open to them; and if unjustly attacked, no doubt the juries of their countrymen, who are interested to preserve the dignity and independence of their Legislature, will give them the most ample satisfaction. But it is said, "each branch must possess this power to punish for breach of privileges, which they must judge of as circumstances may arise and require; that every legislative body, or branch of one, possesses an inherent right to protect itself, which must be exercised as their discretion directs, because it may frequently be necessary to exercise it immediately, when the public safety would make it impossible to wait for reference to other bodies, or tribunals," and, "that if a man was approaching to knock you down, it would be absurd, instead of defending yourself, to deliberate whether you were authorized to do so; that you must act instantly, as the occasion demands; and that as each individual in society possesses this inherent right to protect himself, so does each branch of the Legislature." This, as far I have been able to collect, is the sum of the reasoning on this subject; and it is said to be strengthened by the practice and proceedings of the British Parliament, and the Colonial Legislatures, before the Revolution, and most of the State Legislatures since, and is now universally received as the true doctrine on this subject.

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That it is the doctrine and practice of the British Parliament, I will allow; but it was because the doctrines there held are utterly inadmissible in a free Government; and to prevent any influence from them, and their precedents, and the improper practice of the Colonial and State Legislatures, that this limitation of the privileges of Congress was here purposely introduced. Will any man undertake to say, that the privilege of the Parliament of Great Britain ought to be that of the Congress of this country? Do you suppose that all their members, and their property, and even their servants, should be protected from arrests during the whole time they are elected for, many of them for twenty years together, or during their lives? Would it be thought safe in this country that a small majority of a small body, or single branch of a Legislature, should claim and exercise the authority, whenever they please, to send and seize any man in your community, however important, and confine him in a loathsome dungeon, for six months together, merely because he has differed with them in politics, and criticised, as he had a right to do, on their legislative acts? Is it a pleasant sight to our citizens, to see sergeants-at-arms, with their rods, inquisitorially seizing freemen, and dragging them to your bar, and there exhibiting them as criminals, or spectacles to crowded audiences, merely because they thought they had a right to attack, by argument, proceedings which appeared to them unconstitutional? Can you have the most distant idea, that your constitution could have intended thus for ever to shut the door of inquiry, and make it so penal and dangerous to your citizens that none of them will dare to venture it? Is it possible for any man to read the constitution with attention, and then suppose

that such could have been its design? So far from being so, I do assert that great pains were taken specially to guard against the exercise of any such power, and I have no doubt that the Congress of 1798 must have been of this opinion, or else why did they pass the 2d section of the sedition law? Why did they (improperly in my opinion, because it ought to belong to the State judicials)—why did they make the crime of writing, uttering, publishing, or printing any libel against the President, or either branch of Congress, triable, and punishable, in the federal courts, if either branch possessed this power themselves? If they have the right to punish libels, or false, or malicious attacks, why include them in this act? Their power extends over the whole of the Union, and can reach any inhabitant, in any State. Is it not therefore clear, that by giving this authority to the federal judges, to try and punish for written or printed attacks on either branch of Congress, that the Congress of 1798 did not suppose, for attacks of this kind, made in the papers, there was any other mode of punishment than by a trial, where the person charged would have the benefit of trial by jury? Surely this must have been their opinion, or they would not have had two different modes of trial and punishment for the same offence. They never would have erected a new jurisdiction to include a crime, when one sufficiently strong and energetic existed already; but to prove this still more clearly, let us inquire, why the constitution should have been so attentive to each branch of Congress, so jealous of their privileges, and have shown so little to the President of the United States in this respect. Why should the individual members of either branch, or either branch itself, have more privileges than him? He is himself, as far as his qualified negative goes, a branch of the Legislature; he is, besides, your Executive, he is the sword of the law, and does he possess any privileges like these? If a man meets him walking alone in the streets and insults him, or if one of ruffian manners should enter his house, and even abuse him there, has your President any privileges like these? Can he commit and imprison without a trial? No, sir, he must resort to the laws for satisfaction, where the person charged with the outrage will be heard, and where each party will have justice done them, by men who ought to be so impartially summoned as that no undue bias will be found, when they come to decide. No privilege of this kind was intended for your Executive, nor any except that which I have mentioned for your Legislature. The Convention which formed the constitution well knew that this was an important point, and no subject had been more abused than privilege. They therefore determined to set the example, in merely limiting privilege to what was necessary, and no more. Look into the constitutions of all the States which have been formed since the federal constitution, and see if they have not done the same. The Constitution of South Carolina is remarkably explicit and limited on this subject: It says, "that each House may punish by imprisonment, during its sitting, any person not a member, who shall be guilty of disrespect to the House, by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member, for any thing said in either House; or who shall assault any of them therefor; or who shall assault or arrest any witness or other person, ordered to attend the House, in his going to or returning therefrom; or who shall rescue any person arrested by order of the House." These are all privileges, except privilege from arrest or seizure of estate, mentioned in that constitution; and the slightest inspection at once shows, that except for disrespect or contemptuous conduct, in its presence, or threatening or assaulting a member for his conduct in the House, that no other authority is given to punish—not a word is said about libels, or attacks by writing or printing, on their conduct. It is well known that our constitution intended the press to be free; to be the means of communicating the acts of the Government, and of commenting on them where necessary; that it supposes that majorities will sometimes exist, who may wish to overstep the boundaries they ought not to pass; and, therefore, it provides for them, in the hands of the people, this wholesome correction of the press, which those who resort to must use at their peril. If they use it properly, animadvert with propriety, and really point out defects or usurpations in the Government, the people will applaud their zeal, and the laws will support them in their exertions; but if they falsely or maliciously misrepresent, the law will become the avenger of the Government, and unprejudiced juries be the means of punishing calumniators. This is the true footing upon which legislative privilege should be put in every Government, and it is the one on which it is now placed in the United States. By this you give sufficient power to punish, for any improper thing done in their presence, which may disturb the order of either House, or violate the decorum of their proceedings; and for any supposed slanderous attack, the tenderness with which you ought to touch the constitutional right of the public to inquire into public affairs, and the delicate subject of trial by jury, will always necessarily oblige you to recur to the latter for redress and satisfaction.

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If it was proper, on subjects like this, to refer to British precedents, I could mention a recent one, which is exactly in point; and shows, that even in the English House of Commons, the doctrine I contend for prevails; it is, that in all cases of libels against either House, the remedy must be by prosecution by the Attorney General, and trial by jury. In Stockdale's case, Doctor Logan published charges against the House of Commons, in which he stated, in a variety of ways, that they had been guilty of great cruelty to Mr. Hastings, Mr. Pitt and Mr. Fox, and all sides of the House agreed that it was a libel; but, instead of ordering him before the House, they entered into resolutions directing the Attorney General to prosecute. It appears to me so clear, that for all libels or attacks on either branch of the Legislature, in writing or in print, the mode must be by prosecution, that I do not know it is necessary to trouble you at this time with any further reasoning on that head; I will therefore only mention one more, and then conclude this part of my subject: it is, that from the nature of our Government, where our PRESIDENT is elective, and obliged to attend to public opinion, even if he wishes to do so, he will never venture on those bold measures, which hereditary Executives sometimes attempt. If, then, there should be some men, whose political talents he is afraid of, or whose inquiries into his administration give him uneasiness, an Executive, instead of venturing on any such measure himself, if he can obtain a

majority in either branch, will easily discover some mode of having this man's political iniquities construed into breaches of privilege; and, under cover of his friends' influence, immure and silence, during a whole session, and for half a year, a man, whose arguments were perhaps unanswerable, and whose system may be the one which your councils may the next year adopt. I am far from supposing that we are yet so much advanced in the arts and intrigues of older Governments as to make this probable at present; it is not however impossible, and must be guarded against.

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The next question is, that of the liberty of the press, as applying to these defined privileges; and as it is the first time this sacred subject has been before either House on a question of privilege, I shall expect your indulgence in making some remarks on it. I shall be very short; for however fruitful the subject is, yet so much has been said of it elsewhere, and you must be so well acquainted with it, that it will be necessary for me barely to state some general principles, as they apply to the question before you. I feel a pride in saying that in no country has the press ever been as free as in United America; however clouded or interrupted this freedom has, in my opinion, lately been, I entertain a hope that in a few months all its shackles will be removed, and that the emotions they have occasioned in the public mind will for ever forbid its being thus fettered again. To no subject have I ever more carefully applied, than what ought in a well regulated Government to be the freedom of the press. I well know that where the press is not free, liberty is but a name, and Government a mockery. I have therefore endeavored to form, in my own mind, what ought to be the true standard of the freedom of the press with us; and I have no doubt that it consists in this: That the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature, or any branch of the Government, and no law shall ever be made to restrain the right thereof; that the free communication of thoughts and opinions is one of the most invaluable rights of man; and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty; that in prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the *Jury* shall have a right to determine the law, and the fact, under the direction of the court, as in other cases. This is the situation in which the Constitution of Pennsylvania has placed the press; and it is the true and safe one, upon which it ought to be placed in every free Government. Here the right to investigate the conduct of the Legislature, and of official men, is not only recognized and established, but the constitution seems to require it as a duty, from the citizens. It says to them, these are men periodically delegated by you to manage your public concerns—to you, and you alone, they are accountable for their conduct; nor can you know whether it is meritorious, or otherwise, but by having the right to examine into it, and by freely and frequently exercising that right. And would it not be the strangest thing in the world, when the constitution not only establishes the right, but calls upon the citizens to exercise it with alertness, and by no means to neglect it, that if they should happen to displease a branch of the Legislature, whose conduct they have censured, that they should be delivered immediately into the power of this branch, to be dealt with as they please; that the men they had accused, and whom they had, by the constitution, a right to accuse, should become their judges? Would not this be a most extraordinary doctrine? Would it not involve an inconsistency, that ought not certainly to be chargeable upon the framers of the constitution? In private cases of slander, or defamation, would you suffer the person abused, or any near connection of his, or person interested in the event of the suit, to be on the jury? Certainly not. How much more glaringly improper then would it be, in cases of a public nature, where the acts of a legislative branch are censured, and where the charge has been openly and honorably brought forward, to commit the person who produced it, at once, to the power of the body whose acts he has condemned! Let us suppose, that in the exercise of this invaluable right, some disinterested and independent man, urged by the most honorable and patriotic motives, should conceive a branch of the Legislature overstepping the bounds of the constitution, and going into measures destructive of our rights, or injurious to our interests; that this man should be an important member of your community, of known integrity and independence of situation and character, that he should have no private ends of his own to answer, or any thing in view but the public good; that he has embarked in the investigation at the entreaty of a numerous and respectable part of the community, who wished the public mind to be so fairly and fully possessed of facts, and reasonings on them, as to be able, at the next election, to determine with precision and fairness on the conduct of their Legislature; under these circumstances would it be proper to deliver this man into the power of a body whom he has charged with misbehavior, or a departure from constitutional principles? Or would it not be more fair, would it not wear more the appearance of impartiality in case an examination was necessary into the nature of his charges, or the manner in which he has made them, and the expressions he has used, to have a distinct and unprejudiced body, a jury acting under oath, to decide between them? As far as I know any thing of the principles of natural justice, I should suppose there was no question on the subject, and no other opinion ought to be entertained, and that without it there can be no such liberty of the press, or freedom of inquiry, as the constitution intends.

And here, sir, let it be asked, why should a Government that means well, or is confident in its uprightness and ability, ever fear the press? It should be to them a source of great pleasure, in reflecting that they had so excellent a mode of diffusing a knowledge of their acts, well knowing, if they were unjustly attacked, it gave them the most ample means of defence; and that if it became immoderate and licentious, the laws were always sufficiently energetic to punish it. How many individuals when attacked or slandered, have rejoiced that such a defence has been afforded them; and how indispensable is its free investigation to the removal of doubts which sometimes crowd about the characters of public bodies, or men, and which it is necessary to

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remove! Public bodies are public property; and so indeed are public men; who have in any degree rendered themselves conspicuous by their exertions: few of these, if ever there was one, can expect to be without personal enemies; these will be in proportion to the talents of the man they dislike, and his consequence with the people. Men who engage in public life, or are members of legislative bodies, must expect to be exposed to anonymous, and sometimes avowed attacks, on their principles and opinions. Their best shield will be an upright and able conduct. The best informed will sometimes err; but when their intentions are pure, an enlightened nation will easily discover it, and pardon the mistake. With the shield of conscious rectitude, a Government can never dread the press. It is only in States where the happiness of the people is not the end of Government, or where an individual or a few possess the whole authority, that the press is not agreeable to them. Hence, in despotisms, it is generally odious to the sovereign, and strictly limited. We have, however, found, even among them, a latitude which proves that in the most despotic countries, where the sovereign is conscious of using his power for the good of the people, he fears not the slanders of the malicious. It is remarked of Frederic of Prussia, that few princes were more libelled by their subjects; but that in no country were libels more disregarded: that few, if any, instances ever occurred of his endeavoring to discover the authors, or to crush, by punishment, the spirit of inquiry which literary pursuits had diffused among his subjects. A more remarkable instance is, that of the Empress of Russia; in giving her directions respecting libels, she says, "great care ought to be taken how we extend this crime; representing to ourselves the danger of debasing the human mind by restraint and oppression, which can produce nothing but ignorance, and must cramp and depress the rising efforts of genius." I did not expect to have been obliged ever to have introduced on this floor, Frederic or the Empress, as examples on the subject of the press. The love of liberty, or a wish to countenance the spirit of political inquiry, was not certainly among the reasons for allowing this latitude; but they at once discovered, that if they wished to govern an enlightened people, the spirit of inquiry must be unshackled, and an extensive range given to literary productions. Among the ancients we find Tiberius, and Trajan, and Titus, allowing absolute liberty of speech and writing, suppressing the laws against seditious words and writings, and punishing informers. But the most remarkable instances we have, that freedom of speech and writing are essential to the liberty and greatness of a people, are those of Athens and Rome, when republics: in speaking of them, a celebrated writer says, "that democracy is the nurse of genius, and the greatest encourager of sublimity." The fact is evident from these republics. In Greece, Athens was most democratical, and a state of the greatest liberty; and hence it was, according to Paterculus, "that eloquence flourished in greater force and plenty in that city alone than in all Greece besides; insomuch, (says he,) although the bodies of the people were dispersed into other cities, yet you would think their souls and their genius to have been pent up within the precincts of Athens." So the city of Rome was not only the seat of liberty and empire, but of true wit and exalted genius. The Roman power outlived, it is true, for a considerable time, its liberty, but the freedom of speech and writing was gone, and wit and genius could not long survive them.

How applicable, sir, are these instances, and how incumbent on us is it, if we mean to keep this country a Republic, to cherish the freedom of the press, to remember that without it seldom any thing great or noble can be produced, that to shackle it is to chain the mind, and stifle the seeds of every thing that is generous and amiable! That, in the words of a celebrated divine, "reason and freedom are our own, and given to continue so; we are to use, but cannot resign them, without rebelling against Him who gave them; that to invade them is to encroach on the privileges we receive from God, and traverse the designs of Infinite Goodness." We should remember the danger of precedents, and be careful, as this is the first discussion we have had on this subject, not to establish improper ones, or lay a foundation for that debasement of the mind, which always follows the depression of the press.

It is important here to remind you of the anxiety of the State Legislatures in insisting upon the doors of the Senate being thrown open, and their legislative proceedings exposed, like the other branch, to public view. It was done unquestionably with the intent, that minutes of your debates should be taken, and all your proceedings subject to the inspection of such of our citizens as choose to attend; but as, from the distance, very few of the States could have citizens attending, the great object certainly must have been to have notes taken of the debates, and printed in the gazettes; that through that channel information may be transmitted to every part of the Union, and thus the States become, in the best manner they are able, judges of the talents, as well as conduct and opinions of their members. That this is of infinite importance, in a representative government, no man will deny; but if a printer is to be seized, and dragged to your bar, and perhaps imprisoned for a mistake, that a law has passed when it is only its second reading, or that a member of a committee was not summoned to attend the meeting of the committee, when he was, and did attend, or for any mistake of this kind, I ask you what printer or reporter will take your debates? Who will venture on it; because, where will you draw the line? Will you require that each reporter shall give every word and observation with exactness, and that the smallest deviation from what was said on the orders or proceedings of the House, shall subject him to the odium, and perhaps expense, of a trial at your bar, which must accrue if he has counsel? If this is the case, no reporter will certainly attempt to take your debates, and your doors may just as well be shut again. But, say gentlemen, it is not only for those assertions which you have mentioned, but for the preceding and accompanying observations respecting the views and proceedings of the Senate, and of the members of that body in their official capacity, for which we think this examination requisite. I have already said, in the commencement of my argument, that no man can justify the licentiousness of the press, and that it is perhaps to be lamented that so much invective is used in the papers on both sides of the question; but that as most of these observations are on things that did not happen in the Senate room, and many of



them are stated to have occurred near two years ago, and that as much more violent abuse against the Senate was published in the Federal paper styled the Gazette of the United States, on the 13th day of February, and no notice has been taken of it, that it was best, upon this occasion, to suffer the present to pass unnoticed likewise: that it is astonishing the honorable mover from Connecticut, who seems to feel so much for the dignity and character of the Senate on this occasion, did not, on that of the abuse which was heaped on it for consenting to stop the enlistment for the army, have similar feelings; and that as he consented to suffer those animadversions to pass, it would certainly be doing no great violence to his feelings to deal with the present in the same way: that perhaps the best mode to lessen the importance of a paper was, not to treat its observations with either too much notice or severity; that in politics, as in religion, persecution seldom made converts; that if I ever had the inclination to raise the importance of a press, and bring it into celebrity and notice, I would wish it persecuted, for I never saw a press in a free Government persecuted but it rose immediately. Attack a press for its political publications, you instantly convince the people that it is dreaded, and must be of great importance, and attract their attention. We can never forget the memorable cases of *Sacheverel* and *Wilkes*, or how much the English nation was agitated by them, and we ought to be convinced, that in every country having the least semblance of freedom, the same consequences will always flow from the same measures.

I request of you again to consider the importance of the question, how far, in the case of libels, or attacks in the papers, for their political opinions, any single branch ought to possess the power, perhaps in a moment of passion and resentment, to decide on what is to affect the personal liberty of a citizen? Whether it is consistent with the nature of our Government, that a single branch, without check or control, should become judges in their own case? Whether any citizen charged with a crime, for which he may be punished by the temporary loss of liberty, is not entitled, by the constitution, to "a speedy trial by an impartial jury?" And, whether to deny it, in this instance, would not be to interfere with that provision of the constitution? For my own part, I have no doubt of it; and, feeling as I always do, most jealous for the character of this branch, I am apprehensive, should we proceed in this measure, it may occasion unpleasant observations. Some of its enemies may perhaps say, that no power is so arbitrary as that of the unlimited authority of a single branch, acting in its own cause, revenging its own affronts, and deciding, perhaps more by its own passions and feelings, than by the justice of the case: that a power of this kind is worse than a despotism; because there the despot is in some measure checked by his individual responsibility; for the act being the official act of the body, is that sort of protection under which an individual despot cannot shelter himself from the public odium—should the measure be oppressive, he must alone meet the general censure, which, thus concentrated, strikes with force; but when divided among a number, must in a great measure lose its effect. That, in every view of the subject, we must be convinced that for libels, or printed attacks, on either branch, the constitution must have intended to give the person charged the right of trial by a jury, so collected that a cool and unprejudiced examination might take place, and justice be done to all parties; that this I had shown to be the case, in the instance I had mentioned, in the House of Commons of Great Britain; and we surely would not wish the press should be more free, or the freedom of inquiry into legislative conduct, more unshackled in England than with us. Look, sir, into the abuse that is daily poured by the papers of that country upon their Parliament and Administration, and upon Mr. Pitt and Mr. Fox, and all their leading members; and yet we see no proceedings of this kind. Indeed, if we were to believe Montesquieu, and the writers since him, it is to the freedom of the press alone England owes the portion of liberty she enjoys—it is the ladder by which she rose, and that which she will struggle most to preserve. I devoutly hope she will always keep it, and that we shall likewise maintain it for ever in its utmost purity.

Mr. P. concluded by adding, that if the Senate went into a consideration of his motion, instead of that of the gentleman from Connecticut, (Mr. TRACY,) they would probably avoid that part of the discussion which would be least agreeable, as the subject would be clear from that locality and personality which attached to the first, and a decision would take place without any reference to this or that particular printer; but if the gentleman would postpone the question, Mr. P. consented to let his motion lie on the table, with a view to its being printed for the use of the members, that so both propositions might be compared and considered with more attention than could be done in any other way.

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Mr. COCKE declared that the object which he had in view was nothing more nor less than to rid the House of the business altogether. He was not inclined to appoint any special time for the discussion, as the worthy gentleman from South Carolina (Mr. PINCKNEY) had requested. He had no idea that it was supposed he had the saving or exoneration of any printer in view; he had no such thing; but he wished to save the reputation of this body, which he thought was placed in jeopardy by the Connecticut motion. Here it is proposed to inquire and examine of and into this, that, and the other—to bring one printer here, and generally all persons and papers, who and whatever, just as your committee may think fit. Suppose this power is doubted? Suppose the persons deny your power—how are your committee to enforce their mandates? Suppose your courts of law claim cognizance as a case of libel, are you to have two prosecutions and two trials for the same offence? Surely, surely, your committee will have to retire from the untenable ground, and the defeat will recoil with disgrace upon those of us who attempt to assume powers neither constitutional in themselves, nor just, even if they were constitutional. You can call upon somebody—but who?—to inquire who is the editor of the *Aurora*. You are to inquire how he became possessed of a certain bill which he published; what kind of an inquiry is this? How he procured the sight of a bill, while it was pending in Senate. Why, is there any crime in printing a minute of our transactions? Your bills are printed by your own order, for your use, and for the

information of the other House; two hundred copies or more are circulated without any injunction of secrecy; they are sent off into every State of the Union; and are you going to make inquiry how the editor of the Aurora got to see one of them? Why, are not your gallery doors open, and cannot a bill which has been read in public be possibly remembered, at least, cannot it be taken down in short-hand? and will you punish every man who shall repeat, print, or publish what is made public on this floor? Suppose the editor of the Aurora declines to inform your committee of the mode through which he obtains his information; he says it is convenient and useful to him, but his prior engagements do not permit him to divulge it to you; will you punish him for contempt? But suppose you possessed of the physical power necessary to procure the information you require by an application of the torture; while you are straining his muscles and dislocating his joints, what becomes of the grand palladium of American freedom? Where is the liberty of the press, which is secured to the citizens of the Union against Federal usurpation? The constitution declares that you shall not infringe upon the liberty of the press; and a power expressly denied to the whole Government, a single branch may not assume.

Here Mr. C. was called to order by

Mr. BINGHAM, of Pennsylvania, who inquired what the liberty of the press had to do on a question of postponement? He believed, while the motion for postponement was under consideration, all debate on the merits of the main question to be out of order.

It was contended to be in order to object on a postponement generally to the original motion, for an argument tending to defeat the original motion is reason for a general postponement.

Mr. COCKE proceeded, and said he was glad to find that the freedom of debate in this House was not to be destroyed, though it might be interrupted; and he hoped that the freedom of the press would never be subverted while the Government of the country rested upon the Republican principle of representation. He admitted there were a great many ill-natured things said by many of our American presses, but that should never induce him to run the risk of destroying the most valuable and effectual bulwark for maintaining us free and independent, by using an instrument more fit to cut down the trunk of a tree, than to prune it of its tendrils luxuriances. What was the engine now brought out against this freedom—an engine possessed of all the powers necessary to ensure its success? A printer is to be charged, is to be tried, judged of, and executed, by a body he has offended. Where will you find men of nerve that will risk certain ruin? Such may arise when the press is in danger. It was under these impressions that he wished to get rid of the business altogether.

Mr. TRACY, of Connecticut, did not wish to press the business; indeed his conduct had manifested this intention, for the original motion had been suffered to lie on the table a longer term than usual before it was called up, but even now when it was called up he did not wish to hurry it through. He should not refuse a moderate delay, but he hoped the motion from Tennessee would not prevail, as it went to destroy the object without any further consideration. In answer to what fell from the gentleman from Tennessee, he would say, that the objections he had made did not all of them apply, and if there was any which did apply, amendments could be made so as to conform them to the sense of the Senate. He wished gentlemen would attend to the words of the resolution, and they would find that they did not carry them beyond what was prudent, mild, and proper. The committee are desired to inquire who is the editor of the Aurora; this will appear to be a proper inquiry, for the person is not publicly known; the imprint declares the paper to be published for the heirs of Benjamin Franklin Bache, but we do not know who are the heirs. The gentleman has told us it is no crime to publish the doings of this body; agreed, but is it nothing to publish untruths respecting the official conduct of the members of this body? is it no crime to publish a bill while before this House? But are printers at liberty to tell lies about our transactions? The Aurora says, that the bill which it published had passed the Senate; this every member knows to be contrary to the fact. The bill has not even to the present moment passed this body, it is still on your table liable to recommendation, amendment, or rejection. Asking the editor how he came to print this falsehood, does not go to examine into the private mode by which conveyance of intelligence is made to that office; there can be no real intelligence, it being a falsehood. But suppose we have no power over this editor, because the press is free; suppose we cannot punish him for his slander, calumny, and falsehood, perhaps the inquiry may lead us to discover some persons whom we can punish; will it be said that the constitution is an impediment in our way to punish one of our own members, if he should be found guilty of abusing the confidence of his situation? At least we can exercise the power of removing one of our officers, if we should convict him of a secret league to transmit intelligence which is confidentially intrusted to his care.

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He did not mean to insinuate that any improper mode was used in conveying this intelligence; it might appear that the whole circumstance was a mere unintentional error; if so he should not go farther; but yet the printer could hardly have made the subsequent mistake in relation to the gentleman from South Carolina, in declaring that he had never been consulted by the committee on Mr. Ross's bill; there was something in this calculated to produce an effect upon the public mind. He insinuates that the business of the Senate is done in caucuses, into which the gentleman was not permitted to enter; for if he had, it is supposed he might have detected and defeated the mischiefs which are working against the public welfare. This is an abandoned slander, as is well known to every member of the House, for Mr. PINCKNEY did attend not one meeting only, as the editor of the Aurora squeezed out some days subsequent to his first licentious publication, but he did attend every meeting, as he has candidly and honorably avowed in his place.

The gentlemen had declared themselves the champions of the press; but surely gentlemen will

not advocate such liberty as this—the liberty of publishing nothing but lies and falsehood. If by the liberty of the press is meant the publication of truth and just political information, it was proper to be supported; but he was desirous of maintaining, along with the liberty of the press, the liberty of the citizens, and the security of the Government; he was not for sacrificing these latter objects to the licentiousness of the press. He was not inclined to enter into a newspaper controversy to maintain the dignity and reputation of the Senate, nor did he think that gentlemen appreciated their own standing in society when they referred the individual members of this body to such a mode of defence against the shafts of calumny which a daring editor might hurl against them individually.

Mr. BLOODWORTH, of North Carolina, doubted the power of the Senate to take cognizance of the conduct of members in communicating with their constituents, much less to punish them for publishing circumstances respecting which no injunction of secrecy had been imposed. He, however, assured the Senate that he had not given the editor of the Aurora any information on the subject before them, or indeed on any other, for the editor was a stranger to him; nor did he know that he ever called, at that printing office more than once or twice in his life. He hoped that the business would be postponed for the present, and he should have no objection to its being taken up at a future day, when gentlemen might be better prepared to meet it.

Mr. PAINE, of Vermont, declared himself against the postponement, nor did he think that the motion of Mr. PINCKNEY was so inconsistent with the motion before the House as to render a postponement necessary; he thought the committee might inquire, and although the gentleman would stop, by his proposition, from proceeding in case it turned out to be a fabrication of the editor of the Aurora, yet if it should be found not a fabrication of his, but that of a member or an officer of the House, it was admitted they might progress, without infringing the sacred liberty of the press. Suppose that some person in the gallery should have furnished the spurious matter—and that may possibly be the case—will the sacred liberty of the press be violated if we order the doorkeeper to turn him out, and refuse him access in future? He thought the resolutions might be amended so as to give greater satisfaction than they do at present; for his own part he was not willing to declare all at present which they contained. He thought the business would be simplified if the committee were directed to consider and report what measures would be proper to adopt in respect to a publication containing various untruths of the proceedings of the Senate, and if the question of postponement was lost he meant to move several amendments for that purpose.

Mr. MASON, of Virginia, had no objection to meet the question at the present moment, but he thought it of such importance, both to the Senate and the citizens of the United States, that it should be taken up and discussed in a solemn and serious manner; not hastily and lightly, as some gentlemen seemed to think who were opposed to the postponement for a few days; if, however, the opposition to the postponement was persisted in, he had no doubt but the subject would prove itself well worth a discussion of several days, and that the ultimate decision would not be made till a period more remote than that moved for by his friend from South Carolina. He therefore recommended to gentlemen to explore well the ground which the motion of the gentleman from Connecticut had taken, and consider seriously of the consequences to which they would be led in pursuing their object. What was to be the course of their proceeding? What were the embarrassments likely to arise therein? He called the House to view the delicacy of the situation in which they would be involved while defining their newly discovered privileges and subverting the old acknowledged privileges of the liberty of the press; he said the delicacy of their situation, because he considered it a delicate one, for he was far from believing that the privileges of the Senate were as unlimited as the gentleman from Connecticut contended they were; if so, and they proceed to touch the liberty of the press, which they may discover in the end to be secured against the invasion, they will be compelled to retrace every step they are now taking, which will neither redound to their honor nor discernment. They should be careful how they expose themselves to popular scrutiny in cases respecting their own power, for the public mind had been already considerably agitated, at what many conceived to be an unconstitutional exercise of power. If, session after session, attempts were made to fetter the freedom of the press, the people of the United States would watch with anxious regard every movement of this body. A measure which originated in the Senate, and was subsequently acceded to by the other branch of the Legislature, had been just ground of alarm. It is no wonder that they watch our bills as well as our laws, for it must be recollected by many of the gentlemen who hear me, that the bill called the Sedition Bill was first introduced here, and that, instead of being what it afterwards became, it was a bill more particularly to define treason and sedition. The good sense of the House, during the time it was upon the table and undergoing a political dissection, cut off from it many of those monstrous excrescences which at first disfigured it, and at last trimmed it into a shapely form; but after all it was removed below stairs in a condition not fit to meet the eye of our constituents—even obliged to undergo a decapitation; the head or the title of it was struck off, and instead of being a bill defining treason—which is a thing totally out of our power, the constitution having declared in what alone treason should consist—instead of being denominated a bill against sedition, it took the obnoxious head of being a bill to amend the law for punishing certain crimes against the United States.

Mr. ANDERSON, of Tennessee, did not rise with an intention of entering into the merits of the general question, as to the extent of the privileges of the Senate, which he conceived to be of great moment, but merely to remark, as gentlemen alleged that the public mind was already agitated on the subject, the postponement would tend to increase the degree of agitation, which he conceived it was the wish of gentlemen on both sides to have allayed as soon as possible. He therefore concluded that it would be better to go on with the business and come as soon as

possible to a decision. One gentleman had said it ought to go to the judicial courts, and that the Attorney General should be directed to prosecute: well, then, that gentleman should give his consent to send the business to a committee, in order to inquire whether the case would warrant this interference.

Mr. READ, of South Carolina, would not oppose the motion of his honorable colleague for a postponement, if he had required it on his own account, or if its being negatived would prevent him from bringing forward the preamble and resolution he had read in his place, and at a proper time of having them discussed; but neither of these circumstances were urged; therefore, as his colleague neither required time for preparation nor would be prevented from offering and supporting the intended amendment, he should vote against the postponement.

Mr. DAYTON had the highest confidence in the honor of the gentleman from South Carolina, (Mr. PINCKNEY,) and he never suffered himself to doubt of the truth of the declaration which had been made. He thought the resolutions might be varied so as to get rid of the idea which the gentleman objected to, in respect to the motion having been brought forward at his instance; and might be amended as suggested by the gentleman from Vermont, (Mr. PAINE,) so as to reconcile it still more to the sentiments of the Senate. This being his view of the subject, he wished the business to proceed, and should therefore vote against the postponement.

The question on postponing till Tuesday next, was now put, and the yeas and nays being called, stood yeas 9, nays 19, as follows:

YEAS.—Messrs. Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS.—Messrs. Anderson, Bingham, Chipman, Dayton, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, Watson and Wells.

So the motion was lost.

Mr. NICHOLAS, of Virginia, wished to ask for information. Was it intended by this resolution to charge the committee with inquiring into a breach of privilege as it respected the majority of this body? For the resolution itself furnished no correct idea on this point. He wished also to know whether it was intended that the Senate should declare that the publication was a breach of privilege?

Mr. TRACY, of Connecticut, said that if the gentleman wished for information from him, he would endeavor to give it. He conceived it would be better to pursue the mode of inquiry in the first instance, through the intervention of a committee, and not make at once a decision whether the publication was or was not a breach of privilege; and further, that the committee should report to the Senate what other matters were the proper subjects for the Senate's inquiry. He would not undertake to say at this time whether there was a breach of privilege at all, or whether that breach was in respect to a majority of the House, or of the privilege of a single member.

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Mr. MARSHALL, of Kentucky, was of opinion that if the subject itself was a proper one to be inquired into, then the mode was well devised, and one liable to few or no objections; but there was another circumstance to which he begged permission to call the attention of the Senate. He observed that the resolution pointed only to one object, and that was the publications in the Aurora; he did not think this went far enough, if it was intended to be any thing more than a party manœuvre. If gentlemen meant to defend the honor of this body, they should avoid any thing like partiality, and direct their inquiry to all breaches of privilege, by publications in newspapers, let their publishers be whom they might. Believing that the gentlemen were serious in the present undertaking, he wished them to give it the appearance of impartiality without which it would reflect disgrace on their proceedings. Gentlemen have complained of the slander and calumny thrown upon them by the publications in the Aurora, but, however detestable they might be, he held in his hand one still more vile and flagrant. He would read it, and then move to amend the resolution before the House by adding that the committee be directed to inquire who is the editor of the United States Gazette, and by what authority he published in that paper the following paragraphs.

It passed in the negative—yeas 11, nays 16, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Lloyd, Marshall, Mason, Nicholas, and Pinckney.

NAYS.—Messrs. Bingham, Chipman, Dayton, Foster, Greene, Gunn, Hillhouse, Laurance, Livermore, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

### *The Judiciary.*

Agreeably to notice given yesterday, Mr. PINCKNEY had leave to bring in a bill to amend the act entitled "An act to establish the Judicial Courts of the United States"; which was read and ordered to the second reading.

On introducing the above bill Mr. PINCKNEY addressed the chair as follows:

Mr. PRESIDENT: When I first had the honor of addressing you on this subject it appeared to me necessary to move an amendment to the constitution; on reflection, however, I am since convinced that the more regular and expeditious mode would be to move an amendment to the law establishing the Judicial Courts of the United States—by this means the law may be passed

during the present session, and we shall the more readily obtain the limitation we contend for.

As the Judiciary is among the most important departments in our Government, as it reaches every situation in society—neither the rich, the honored, nor the humble, being without its influence or above its control—as it is the department to which not only the lives and fortunes, but the characters of our citizens are peculiarly intrusted, it becomes us to be extremely careful that the Judges should not only be able and honest men, but independent in their situation. Our constitution has in some degree secured their independence by giving them permanent salaries, and rendering them ineligible to the Legislature; but in vain will we consider them independent, in vain may we suppose their opinion beyond the control or interference of the Executive, until we have determined it shall not be in his power to give them additional offices and emoluments, while Judges; until, in short, we confine them wholly to their duties as Judges, and teach them to believe that in the execution of the laws they should consider themselves as little obliged to please the President, or to fear his disapprobation, as that of any other man in the Government. This can only be done by preventing them accepting other offices, while they continue as Judges, and thus depriving him of the power of heaping upon them additional favors and emoluments.

It is an established maxim, and I hope will for ever remain so, that the Legislature and Judiciary should be as distinct as the nature of our Government will admit; that is, that the same men shall not, in a deliberative capacity, agree to measures which they shall afterwards have a right to explain and decide upon in a judicial one. The reason is obvious; that the Judges should, in a calm and unprejudiced manner, explain what the law literally is, and not what it ought to be; that they should not be allowed to carry upon the bench those passions and prejudices which too frequently prevail in the adoption and formation of legislative acts and treaties, and which never fail to give an irresistible bias to the opinions of a Judge who has been concerned in making them. The truth of this reasoning is now so generally conceded, that there is not a man who knows any thing of government that will attempt to controvert it; the constitutions of all the States have sanctioned it, and if the opinions of the Federal Convention ought to have weight, they so strongly insisted upon it as even to refuse, after repeated trials, associating the Judges with the President in the exercise of his revisionary power; indeed a gentleman high in office, and who held both situations at the same time as Judge and Envoy, is himself decidedly of this opinion, for in his charge to the Eastern juries he has these expressions:

"Wise and virtuous men have thought and reasoned very differently respecting Government; but in this they have at length very unanimously agreed, viz: "that its powers should be divided into three distinct independent departments, the Executive, Legislative, and Judicial. But how to constitute and balance them so as best to guard against abuse and fluctuation, and preserve the constitution from encroachments, are points on which there continues to be a great diversity of opinions, and on which we all have as yet much to learn. The Constitution of the United States has therefore instituted these departments, and much pains have been taken so to form and define them, as that they may operate as checks one upon the other, and keep each within its proper limits: it being universally agreed to be of the last importance to a free people, that those who are vested with Legislative, Executive, and Judicial powers should rest satisfied with their respective portions of power; and neither encroach on the provinces of each other, nor suffer themselves or the others to intermeddle with the rights reserved by the constitution to the people.""

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If, then, there can be no doubt of its propriety when applied to a Judge, in ordinary cases, how much more forcibly does it apply to an Envoy who concludes a treaty, which when ratified is to become the supreme law of the land; how strongly must the negotiation of so important and in many instances so difficult a business, be impressed on his mind! He will no doubt retain the journals of his proceedings and opinions, and perfectly recollect the progress and termination of every proposal which was compromised or rejected. It must be difficult for him to forget the attempts to which ministers are sometimes liable in condescending where their object is honorable; he will remember what his opinions were upon particular points; and, whether they were successful or not, his general character may be that of not very easily yielding them. In short, it is impossible for him to be that cool and unbiased interpreter of the treaty which he otherwise might have been, had he not been concerned in concluding it.

The constitution contemplates an independent Judiciary. The public, therefore, will expect and have a right to demand, upon a questions, a fair and impartial trial by Judges, whose minds are open to conviction, and unprejudiced by party opinions; by men who have not been concerned in forming a law or treaty, but who are totally unfettered by the recollection of what passed at the negotiation, or what might have been wished or expected by either party, as judges, candidly and impartially to determine upon every question that may come before them.

These reasons are certainly sufficient to convince any one that this provision is necessary to the independence of the Judges, and the pure and unbiased exposition of the laws: that unless it is done, their independence is a visionary and unfounded thing. That if the President can hold out to the Judges the temptation of being Envoys, or of giving them other offices, and that he still can continue them as Judges, that on any question in which the President or his friends, or the Government may be concerned, it might have a tendency to influence them in opinion; that it was not frequently to be expected they would be unmindful from whom they received the present appointments, or so entirely indifferent to their own, or the advancement of their families as not sometimes to recollect that from the same source other and greater emoluments might in future be derived; that ingratitude was not often the vice of public officers while their patron continued

in power; that on subjects where his character, his feelings, or the public opinion of his acts were in question, our Judges might reasonably be expected not to be charged with apathy or inattention; and that the true way to assert the dignity of the President and the honor and independence of the Judges, was to place it out of the power of the one to offer, and the other to accept additional favors.

That a Judge ought never to be absent from the United States, or be drawn from his official situation and leave an undue proportion of its duties to be performed by the remainder of the bench; that the number of Judges were exactly proportioned to the duties they were to perform; that to withdraw one and be incapable of supplying the vacancy, was not only to require the inexecution of the laws in some parts of the Union, but to invidiously harass the other, while a favorite or possibly too complying a Judge was sent to gratify his curiosity or indulge his taste on some agreeable or easy mission.

That no man ought to hold two offices under the same Government, particularly where they were important; that most of the States had regulations to prevent this, and that nothing more contributed to the extravagance of a Government or the corruption and immorality of its citizens, than the power to heap many lucrative and perhaps useless offices on the same person; that it had a tendency to make them servile, to render them the tools and sycophants of men in power, and to degrade the character of office.

That in case of the impeachment of the President of the United States, the Chief Justice was to preside, and there was no provision in the constitution to supply the vacancy; therefore, if an impeachment was to take place in his absence, it must remain undecided until the Chief Justice could be sent for; that this, if recollected by the Executive, should of itself have been an insuperable objection—in point of propriety, it always is so, but in point of delicacy it ought most strongly to have been so, because, here the President, is the officer, and indeed the only one, who is implicated in the possibility of its inconvenience arising from absence of the Chief Justice. It is true it is to be presumed that the man who is elected by his countrymen to administer the important office of President, will be always so wise and virtuous as to make it very unlikely an impeachment of him should take place—the thing, however, is possible. In times of difficulty where opinions run high, and where those opinions are strongly divided between numerous and powerful parties, it is impossible to foretell what may happen. No man is said to be wise at all times, and our own experience and intercourse with the world must convince us that there are moments of enthusiasm, or of heat, or surprise, when the most cautious men are not quite so prudent as others. I will therefore ask, and do it with great deference, as the President is the only officer on whose trial the Chief Justice is to preside, or on whose impeachment his absence would be a public inconvenience, is it not perhaps presuming too far on his own infallibility or incapacity to err, to send the only officer to a distant country, without whose presence, in case of an impeachment, a court could not be formed to try him? I ask it with deference, and am sure these observations must have escaped the Executive, or the Chief Justice never would have been sent.

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To evince the absolute necessity of some provision being made, it is to be observed that, as the law stands now, a Judge might not only accept any other appointment from the Executive of the Union, but he may accept them from the individual States, or, what is still more dangerous, from a foreign power, and thus become the minion of the one or the tool of the other, as circumstances or his own interest may prompt him. Few men will deny the necessity of some provision here, and that the present is an unwise and degrading situation for a national Judiciary. Most of the States have carefully guarded their tribunals against a danger of this kind. The State of South Carolina, to which I belong, is remarkably express on this subject. Aware of the necessity of an independent judiciary, her constitution, in speaking of that department, has these words: "nor shall the Judges, hold any other office of profit or trust under this State, the United States, or any other power," a prohibition not more complete or full than ought to exist in the case of the Federal Judges.

A strange doctrine has lately been circulated, which it is my duty to remark on—it is, that this bill is to be considered as a reflection on the President for nominating a Chief Justice, and the Senate for having confirmed it, and that the Senate, by agreeing to it, will join in the censure.<sup>[46]</sup> Being always ready to approve, and to praise what is meritorious, it is with great reluctance I can ever be brought to censure—I have no such intention at present. I can readily believe that many of the inconveniences I have mentioned may have escaped the President in the recent nomination. It is here I have always disliked it. I believe the general sentiment to be against it; but, be that as it may, no such reason ought ever to have weight in this House. If the thing is right, if it is now considered as proper for us to say, that the Judges must stay at home, and be confined to their judicial duties, and hold no other offices while Judges, we should do it, and not consider whether it is pleasing or otherwise to the President; he must understand public business too well to consider it in the nature of a reflection. We every day alter existing laws and regulations, without considering such changes as reflections on a preceding Legislature or President, and I should be sorry to suppose, that, while a bill was under discussion, the fear of displeasing the Executive should ever be used as a reason for its rejection. He has always a right to give his opinion in the exercise of his revisionary authority, and when he does, we will deliberately and respectfully attend to it. One remark more, and I shall no longer trespass on the patience of the House: it is, that a reason has been given for leaving the President at liberty to send a Judge on any delicate or difficult mission, which I do not conceive reputable either to the political or literary character of our country—it is said the Judges may be the most able and qualified men the President can find, and that being prevented from sending one of them, he may sometimes be obliged to send

inferior and less important characters, and that the public interest might suffer. How far the present or any former supreme bench may justify the observation it is not for us to say, but never will I suppose that among a people so numerous and enlightened, so alive to their country's welfare, and hundreds, perhaps thousands of whom are so devoted to public business, can only six men be found capable of discharging any political duties that Government might require; the idea is too degrading to our national character to be entertained for a moment. For these reasons I have thought it my duty to introduce this bill, and I trust it will pass and become a law.

## **SATURDAY, March 8.**

### ***Breach of Privilege.***

And, on motion to agree to the original motion as amended, it passed in the affirmative—yeas 19, nays 8, as follows:

YEAS.—Messrs. Anderson, Chipman, Dayton, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, Watson, and Wells.

NAYS.—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

So it was

*Resolved*, That the Committee of Privileges be, and they are hereby, directed to consider and report what measures it will be proper for the Senate to adopt, in relation to a publication in the newspaper, printed in the city of Philadelphia, on Wednesday morning the 19th of February, 1800, called the General Advertiser, or Aurora; in which it is asserted, that the bill prescribing the mode of deciding disputed elections of PRESIDENT and VICE PRESIDENT OF THE UNITED STATES had passed the Senate, when in fact it had not passed; in which it is also asserted, that the honorable Mr. Pinckney, a Senator from the State of South Carolina, and a member of the committee who brought before the Senate the bill aforesaid, had never been consulted on the subject; whereas, in fact, he was present at each meeting of the committee; and, generally, to report what measures ought to be adopted in relation to sundry expressions contained in said paper, respecting the Senate of the United States, and the members thereof, in their official capacity.

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## **TUESDAY, March 18.**

### ***Breach of Privilege.***

The Senate took into consideration the report of the Committee of Privileges, on the measures that will be necessary to adopt in relation to a publication in the newspaper, printed in the city of Philadelphia, on Wednesday morning, the 19th of February last, called the General Advertiser, or Aurora; and,

On motion to adopt the first resolution reported, it was agreed to divide the motion, and that the question should be taken on the following words:

*Resolved*, That the said publication contains assertions, and pretended information, respecting the Senate, and the Committee of the Senate, and their proceedings, which are false, defamatory, scandalous, and malicious; tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States.

And on the question, to adopt this part of the resolution, reported by the committee, it passed in the affirmative—yeas 20, nays 8, as follows:

YEAS.—Messrs. Anderson, Bingham, Brown, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Baldwin, Bloodworth, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

## **WEDNESDAY, March 19.**

The Senate resumed the consideration of the report of the Committee of Privileges, on the measures proper to adopt in relation to a publication in the newspaper called the Aurora, of the 19th of February last; and it was agreed to amend the second member of the first resolution reported, as follows: "and that the said publication is a high breach of the privileges of this House;" and, on the question to agree thereto, as amended, it was determined in the affirmative—yeas 17, nays 11, as follows:

YEAS.—Messrs. Bingham, Chipman, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

The Senate resumed the consideration of the report of the Committee of Privileges, on the measures proper to be adopted in relation to a publication of the 19th of February last, in the newspaper called the Aurora; and it was agreed to fill the blanks in the second resolution reported, with the words "Monday 24th, twelve o'clock," and, at the close of the resolution, with the words "twenty-second;" and,

On motion, to adopt this part of the report, as follows:

*Resolved*, That William Duane, now residing in the city of Philadelphia, the editor of the said newspaper called the General Advertiser, or Aurora, be, and he is hereby, ordered to attend at the bar of this House, on Monday, the 24th day of March inst., at 12 o'clock, at which time he will have an opportunity to make any proper defence for his conduct, in publishing the aforesaid false, defamatory, scandalous, and malicious assertions, and pretended information; and the Senate will then proceed to take further order on the subject; and a copy of this and the foregoing resolution, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, Sergeant-at-Arms for the said Senate, and left by the said Sergeant-at-Arms with the said William Duane, or at the office of the Aurora, on or before the twenty-second day of March instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution:

It passed in the affirmative—yeas 18, nays 10, as follows:

YEAS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

So the report of the committee was adopted, as follows:

Whereas, on the 19th day of February, now last past, the Senate of the United States, being in session, in the city of Philadelphia, the following publication was made in the newspaper, printed in the said city of Philadelphia, called the General Advertiser, or Aurora, viz:

"In our paper of the 27th ult. we noticed the introduction of a measure into the Senate of the United States, by Mr. Ross, calculated to influence and affect the approaching Presidential election, and to frustrate, in a particular manner, the wishes and interests of the people of the Commonwealth of Pennsylvania.

"We this day lay before the public a copy of that bill as it has passed the Senate.

"Some curious facts are connected with this measure, and the people of the Union at large are intermediately, and the people of this State immediately interested to consider the movements, the mode of operation, and the effects.

"We noticed a few days ago the caucuses (or secret consultations) held in the Senate Chamber. An attempt was made in an evening paper to give a counteraction (for these people are admirable at the system of intrigue) to the development of the Aurora, and to call those meetings jacobinical; we must cordially assent to the jacobinism of those meetings—they were in the perfect spirit of a jacobinical conclave.

"The plain facts we stated are, however, unquestionable; but we have additional information to give on the subject of those meetings. We stated, that intrigues for the Presidential election were among the objects; we now state it as a fact that cannot be disputed upon fair ground, that the bill we this day present was discussed at the caucus on Wednesday evening last.

"It is worthy of remark how this bill grew into existence.

"The opponents of independence and republican Government, who supported Mr. Ross in the contest against Governor McKean, are well known by the indecency, the slander, and the falsehood of the measures they pursued—and it is well known that they are all devoted to the Federal party, which we dissected on Monday. Mr. Ross proposed this bill in the Federal Senate, (how consistently with the decency of his friends will be seen;) a committee of five was appointed to prepare a bill on the subject: on this committee, Mr. Pinckney, of South Carolina, was appointed. On Thursday morning last (the caucus held the preceding evening) Mr. Ross informed Mr. Pinckney that the committee had drawn up a bill on the subject, when in fact Mr. Pinckney had never been consulted on the subject, though a member of the committee! The bill was introduced and passed as below.

"On this occasion it may not be impertinent to introduce an anecdote which will illustrate the nature of caucuses, and show that our popular Government may, in the hands of a faction, be as completely abused as the French Constitution has been, by the self-created Consuls:



"In the summer session of 1798, when Federal thunder and violence were belched from the pestiferous lungs of more than one despotic minion, a caucus was held at the house of Mr. Bingham, in this city. It was composed of members of the Senate, and there were present seventeen members. The Senate consisting of thirty-two members, this number was of course a majority, and the session was a full one.

"Prior to deliberation on the measures of war, navy, army, democratic proscription, &c., it was proposed, and agreed to, that all the members present should solemnly pledge themselves to act firmly upon the measures to be agreed upon by the majority of the persons present at the caucus.

"The measures were perfectly in the high tone of that extraordinary session. But upon a division of the caucus it was found that they were divided, nine against eight. This majority, however, held the minority to their engagement, and the whole seventeen voted in Senate upon all the measures discussed at the caucus.

"Thus it is seen that a secret self-appointed meeting of seventeen persons dictated laws to the United States, and not only that nine of that seventeen had the full command and power over the consciences and votes of the other eight, but that nine possessed, by the turpitude of the eight, actually all the power which the constitution declares shall be vested in the majority only. In other words, a minority of nine members of the Senate ruled the other twenty-three members.

"It is easily conceivable, as in the recent changes in France, that this spirit of caucusing may be conducted in progression down to two or three persons; thus three leading characters may agree to act upon measures approved by any two of them; these three may add two others, and they would be a majority of five: and those adding four others would be a majority of nine; and this nine possess all the power of a majority of twenty-three!

"Yet such is the way we are treated by those who call themselves Federalists.

"The following bill is an offspring of this spirit of faction secretly working; and it will be found to be in perfect accord with the outrageous proceedings of the same party in our State Legislature, who are bent on depriving this State of its share in an election that may involve the fate of the country and posterity."

*Resolved*, That the said publication contains assertions and pretended information, respecting the Senate, and the Committee of the Senate and their proceedings, which are false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States: and that the said publication is a high breach of the privileges of this House.

*Resolved*, That William Duane, now residing in the city of Philadelphia, the editor of the said newspaper called the General Advertiser, or Aurora, be, and he is hereby, ordered to attend at the bar of this House on Monday, the 24th day of March, inst., at 12 o'clock, at which time he will have opportunity to make any proper defence for his conduct, in publishing the aforesaid false, defamatory, scandalous, and malicious, assertions and pretended information; and the Senate will then proceed to take further order on the subject: and a copy of this and the foregoing resolution, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, Sergeant-at-Arms for the said Senate, and left by the said Sergeant-at-Arms with the said William Duane, or at the office of the Aurora, on or before the twenty-second day of March, instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution.

## **SATURDAY, March 22.**

Mr. DAYTON, from the Committee of Privileges, to whom it was referred to prepare and lay before the Senate a form of proceedings in the case of William Duane, reported in part; which report was read, amended, and agreed to, as follows:

When William Duane shall present himself at the bar of the House, in obedience to the order of the 20th inst., the President of the Senate is to address him as follows:

1st. William Duane:

You stand charged by the Senate of the United States, as editor of the newspaper called the General Advertiser, or Aurora, of having published in the same, on the 19th of February, now last past, false, scandalous, defamatory, and malicious assertions, and pretended information, respecting the said Senate and Committee of the Senate, and their proceedings, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and therein to have been guilty of a high breach of the privileges of this House.

Then the Secretary shall read the resolutions of the Senate, passed the 20th instant, with the preamble; after which the President is to proceed as follows, viz:

1st. Have you any thing to say in excuse or extenuation for said publication?

2dly. If he shall make no answer, the Sergeant-at-Arms shall take him into custody, and retire with him from the Senate Chamber until the Senate shall be ready for a decision, at which time the Sergeant-at-Arms shall again set him at the bar of the House, and the President of the Senate is to pronounce to him the decision.

3dly. If he shall answer, he is to continue at the bar of the House until the testimony (if any be adduced) shall be closed, and he shall retire while the Senate are deliberating on the case; and when a decision is agreed upon, the said Duane, being notified of the time by the Sergeant-at-Arms, verbally, or by a written notice left at his office, shall appear at the bar of the House, and the President of the Senate is to pronounce to him the decision.

### MONDAY, March 24.

The VICE PRESIDENT communicated a letter, signed William Duane, requesting to be heard by counsel, and have process awarded to compel the attendance of witnesses in his behalf, on the summons served on him the 22d inst., for a high breach of the privileges of the Senate; which letter was read.

A motion was made that William Duane be permitted to be heard by counsel, agreeably to his request; and, after debate, the said William Duane appeared at the bar of the House, agreeably to the summons of the 22d instant; a return thereon having been made in the words following:

CITY OF PHILADELPHIA, *March 21, 1800.*

Then I, the subscriber, Sergeant-at-Arms for the Senate of the United States, left a true and attested copy of the within at the office of the Aurora.

JAMES MATHERS.

And the charge against the said William Duane having been read, he repeated his request to be heard by counsel.

On which he was ordered to withdraw, and a motion was made as follows:

*Resolved*, That, William Duane be permitted to be heard by counsel, he having appeared, agreeably to the order of the Senate, and requested that he might be heard by counsel.

On which a motion was made to strike out all the motion subsequent to the word "Duane," and insert:

Having appeared at the bar of the Senate and requested to be heard by counsel, on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel while personally attending at the bar of the Senate; who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence.

And it was agreed to divide the motion, and that the question be taken on striking out; which passed in the affirmative—yeas 18, nays 11, as follows:

YEAS.—MESSRS. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

A motion was made to amend the amendment by striking out these words "he be allowed the assistance of counsel while personally attending the bar of the Senate; who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence;" and to insert "he be permitted to have assistance of counsel for his defence;" and it was agreed to divide the motion, and that the question should be taken on striking out, which passed in the negative—yeas 10, nays 18, as follows:

YEAS.—MESSRS. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

NAYS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

And, on the question to agree to the original amendment, it passed in the affirmative—yeas 21, nays 8, as follows:

YEAS.—MESSRS. Baldwin, Bingham, Bloodworth, Chipman, Dayton, Dexter, Foster, Franklin, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Brown, Cocke, Langdon, Marshall, Mason, Nicholas, and Pinckney.

And the question being taken on the motion as amended, it was

*Resolved*, That William Duane having appeared at the bar of the Senate, and requested to be heard by counsel, on the charge against him for a breach of privileges of the Senate, he be

allowed the assistance of counsel while personally attending at the bar of the Senate, who may be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence.

A motion was made that it be an instruction to the Committee of Privileges to report in what manner witnesses shall be compelled to attend the Senate in support of the charge against William Duane, and in his defence against that charge.

And, after debate, the further consideration thereof was postponed.

*Resolved*, That a copy of the resolution last agreed to be sent to William Duane, and at the same time, he be ordered to attend at the bar of this House at 12 o'clock, on Wednesday next.

### **WEDNESDAY, March 26.**

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The VICE PRESIDENT communicated a letter signed William Duane, stating that he had received "an authenticated copy of the resolution of Monday last in his case," and enclosing certain papers stated to be a correspondence between him and his intended counsel, marked A, B, and C, and that he finds himself "deprived of all professional assistance under the restrictions which the Senate have thought fit to adopt. He therefore thinks himself bound, by the most sacred duties, to decline any further voluntary attendance upon that body, and to leave them to pursue such measures in this case, as in their wisdom they may deem meet;" and the letter was read.

On motion that the papers referred to in the letter be read, it passed in the negative.

On motion, the Senate took into consideration the report of the Committee of Privileges, who were ordered to prepare and lay before the Senate a form of proceedings in the case of William Duane; and, after debate,

The order of the day was called for.

*Ordered*, That the Sergeant-at-Arms, at the bar of the House, do call William Duane. And the said William Duane did not appear. Whereupon,

*Resolved*, That as William Duane has not appeared at the bar of this House, in obedience to the order of the 24th instant, and has addressed a letter to the President of the Senate, which has been read this morning, in which he refuses any further attendance, his letter be referred to the Committee of Privileges, to consider and report thereon.

On motion, the Senate resumed the consideration of the report of the Committee of Privileges of the 25th instant. And on the question to agree to the first resolution, amended as follows:

*Resolved*, That all testimony shall be taken by the Committee of Privileges, who are hereby authorized to send for persons, papers, and records, and compel the attendance of witnesses which may become requisite for the execution of their commission:

It passed in the affirmative—yeas 18, nays 11, as follows:

YEAS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

On motion, the 4th resolution was adopted, as follows:

*Resolved*, That all testimony taken by said committee shall be reported to the Senate, and kept on file by the Secretary.

And having agreed to postpone the other resolutions reported, the Senate adjourned.

### **THURSDAY, March 27.**

Mr. DAYTON, from the Committee of Privileges, to whom was referred the letter of William Duane, on the 26th instant, made report, as follows:

*Resolved*, That William Duane, editor of the General Advertiser, or Aurora, having neglected and refused to appear at the bar of this House, at 12 o'clock, on the 26th day of March instant, pursuant to the order of the 24th instant, of which order he had been duly notified; and having sent the following letter to the President of the Senate, which has been communicated to the Senate, viz:

*"To the President of the Senate:*

"SIR: I beg of you to lay before the Senate this acknowledgment of my having received an authenticated copy of their resolutions on Monday last, in my case. Copies of those resolutions I transmitted to Messrs. Dallas and Cooper, my intended counsel, soliciting their professional aid; a copy of my letter is enclosed marked A. Their answers I have also the pleasure to enclose, marked B and C. I find myself, in consequence of these answers, deprived of all professional assistance, under the restrictions which the Senate have thought fit to adopt. I therefore think myself bound by the most sacred duties to decline any further voluntary attendance upon that body, and leave them to pursue such measures in

this case, as, in their *wisdom*, they may deem meet. I am, sir with perfect respect,

"WM. DUANE."

is guilty of a contempt of said order, and of this House, and that, for said contempt, he, the said Wm. Duane, be taken into the custody of the Sergeant-at-Arms attending this House, to be kept subject to the further orders of the Senate.

On motion to agree to this first resolution reported, it passed in the affirmative—yeas 16, nays 12, as follows:

YEAS.—MESSRS. Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

On motion to strike out these words from the second resolution reported: "And all marshals, deputy marshals, and civil officers of the United States, and every other person, are hereby required to be aiding and assisting to you in the execution thereof:" it passed in the negative—yeas 10, nays 19, as follows:

YEAS.—MESSRS. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Mason, Nicholas, and Pinckney.

NAYS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Marshall, Paine, Read, Ross, Schureman, Tracy, and Wells.

The second resolution reported was read as follows:

*Resolved*, That a warrant issue signed by the President of the Senate, in the following form, viz:

UNITED STATES, }  
The 27th day of March, 1800.} SS.

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Whereas the Senate of the United States, on the 18th day of March, 1800, then being in session in the city of Philadelphia, did resolve that a publication in the General Advertiser, or Aurora, a newspaper printed in the said city of Philadelphia, on Wednesday, the 19th day of February, then last past, contained assertions and pretended information respecting the Senate, and Committee of the Senate, and their proceedings, which were false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and that the said publication was a high breach of the privileges of the House.

And whereas the Senate did then further resolve and order, that the said William Duane, resident in the said city, and editor of said newspaper, should appear at the bar of the House, on Monday, the 24th day of March, instant, that he might then have opportunity to make any proper defence for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information.

And whereas the said William Duane did appear on said day at the bar of the House, pursuant to said order, and requested counsel; and the Senate, by their resolution of the 24th day of March, instant,

*Resolved*, That William Duane, having appeared at the bar of the Senate, and requested to be heard by counsel on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel while personally attending at the bar of the Senate, who might be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence, and that the said William Duane should attend at the bar of the Senate on Wednesday, then next, at 12 o'clock, of which the said Duane had due notice.

And whereas said William Duane, in contempt of the said last mentioned order, did neglect and refuse to appear at the bar of the said Senate, at the time specified therein; and the Senate of the United States, on the 27th day of March, instant, did thereupon resolve that the said William Duane was guilty of a contempt of said order and of the Senate, and that for said contempt he, the said William, should be taken into custody of the Sergeant-at-Arms attending the Senate, to be kept for their further orders. All which appears by the journals of the Senate of the United States, now in session in the said city of Philadelphia.

These are, therefore, to require you, James Mathers, Sergeant-at-Arms for the Senate of the United States, forthwith to take into your custody the body of the said William Duane, now resident in the said city of Philadelphia, and him safely to keep, subject to the further order of the Senate; and all marshals, deputy marshals, and civil officers, of the United States, and every other person, are hereby required to be aiding and assisting to you in the execution thereof; for which it shall be your sufficient warrant.

Given under my hand, this 27th day of March, 1800.

On motion to agree to this resolution as reported, it passed in the affirmative—yeas 18, nays 11, as follows:

YEAS.—Messrs. Bingham, Chipman, Dayton, Dexter, Foster, Goodhue, Greene, Hillhouse, Latimer, Laurance, Livermore, Lloyd, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, Nicholas, and Pinckney.

So the report of the committee was adopted.

**MONDAY, March 31.**

***Respect to Mrs. Washington.***

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend the privilege of franking letters and packages to Martha Washington."

**TUESDAY, April 1.**

The bill, sent from the House of Representatives entitled "An act to extend the privilege of franking letters and packages to Martha Washington," was read the second time; and, by unanimous consent, it was read the third time and passed.

**TUESDAY, April 8.**

The bill for the defence of the merchant vessels of the United States was read the second time, and referred to Messrs. GOODHUE, NICHOLAS, and TRACY, to consider and report thereon to the Senate.

The bill "for the removal and accommodation of the Government of the United States" was read the second time and referred to Messrs. ROSS, LLOYD, and HILLHOUSE, to consider and report thereon to the Senate.

The bill to repeal the "Act laying duties on mills and implements employed in the manufacture of snuff," was read the second time, and referred to Messrs. BINGHAM, LIVERMORE, and LAURANCE, to consider and report thereon to the Senate.

The bill permitting the exportation of some gunpowder, also a number of muskets and cutlasses, was read the second time and ordered to lie on the table.

Mr. CHIPMAN, from the committee to whom was referred on the 12th March last, to inquire what amendments are necessary in the act to establish the Judicial Courts of the United States, reported a bill on the subject; which was read and ordered to the second reading.

The Senate took into consideration the report of the committee on the petition of Thomas Burling and others, inhabitants of the Mississippi Territory; and the report was adopted.

**TUESDAY, April 29.**

***Judiciary—Its better Organization.***

The Senate took into consideration the report of the committee on the bill to amend the act to establish the Judicial Courts of the United States; the first clause of which is as follows: [Pg 427]

Strike out the whole of the bill after the word "serve," in third line, and insert "in the Courts of the United States, shall be designated by lot, or otherwise, in each State or district respectively, according to the mode of forming juries, to serve in the highest courts of law therein, now practised; so far as the same shall render such designation practicable by the Courts and Marshals of the United States."

On motion to strike out all that follows the word "otherwise," in the fourth line of the report, for the purpose of inserting the following:

"Summoned or procured in each State respectively, according to the mode directed and prescribed by the laws of each State respectively, so far as such laws shall render the same practicable by the Courts or Marshals of the United States; and where the State mode cannot be used in the Courts of the United States, the Marshal attending such Courts shall, every day the Court sits, summon a sufficient number of persons to attend the Court that day, that out of them may be impanelled sufficient juries for the trial of all causes (except cases punishable with death) depending in such Courts; and if any person so summoned shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the United States."

A division of the motion was called for, and the question was taken on striking out, which passed

in the negative—yeas 9, nays 16, as follows:

YEAS.—Messrs. Anderson, Bloodworth, Brown, Cocke, Franklin, Langdon, Marshall, Mason, and Nicholas.

NAYS.—Messrs. Bingham, Dayton, Dexter, Foster, Goodhue, Greene, Gunn, Hillhouse, Howard, Latimer, Livermore, Read, Ross, Schureman, Tracy, and Wells.

And it was agreed, that the bill pass to the third reading as amended.<sup>[47]</sup>

### WEDNESDAY, May 14.

The VICE PRESIDENT having, by letter, intimated his desire to be excused from further attendance, as it would probably be the last day of the session, the Senate proceeded to the choice of a President *pro tempore*, as the constitution provides, and URIAH TRACY was duly elected.

#### *Mississippi Slave Act.*

The bill entitled "An act to permit, in certain cases, the bringing of slaves into the Mississippi Territory," was read the third time. On the question to agree to the final passage thereof, it passed in the negative—yeas 5, nays 14, as follows:

YEAS.—Messrs. Anderson, Cocke, Marshall, Pinckney, and Read.

NAYS.—Messrs. Baldwin, Bingham, Bloodworth, Brown, Dayton, Foster, Franklin, Greene, Hillhouse, Laurance, Livermore, Mason, Morris, and Ross.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill regulating the grants of land for the refugees from the British provinces of Canada and Nova Scotia.

The Senate considered the resolution of the House of Representatives on the amendment of the Senate to the bill last mentioned.

*Resolved*, That they adhere to their amendment.

Mr. Ross, from the committee on the bill making grants of lands to the inhabitants of Vincennes, and Illinois country, reported the bill without amendment, and it was agreed to postpone the bill to the next session of Congress.

#### *Adjournment.*

A message from the House of Representatives informed the Senate that they have appointed a committee on their part, with such as the Senate may join, to wait on the PRESIDENT OF THE UNITED STATES and notify him that, unless he hath any further communications to make to the two Houses of Congress, they are ready to adjourn; and they desire the appointment of a committee on the part of the Senate.

The Senate agreed to the resolution of the House of Representatives appointing a committee, jointly with such as the Senate may appoint, to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed adjournment of the two Houses of Congress; and it was ordered that MESSRS. BINGHAM and WELLS be the committee on the part of the Senate.

Mr. BINGHAM reported, from the joint committee last mentioned, that the PRESIDENT OF THE UNITED STATES had no further communication to make to Congress at this time than his best wishes for their safe return to their respective places of abode.

On motion that it be

*Resolved*, That the PRESIDENT OF THE UNITED STATES be requested to instruct the proper law officer to commence and carry on a prosecution against William Duane, editor of the newspaper called the Aurora, for certain false, defamatory, scandalous, and malicious publications, in the said newspaper, on the 19th of February last past, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States:

It passed in the affirmative—yeas 13, nays 4, as follows:

YEAS.—Messrs. Bingham, Dayton, Foster, Greene, Gunn, Latimer, Laurance, Livermore, Morris, Read, Ross, Tracy, and Wells.

NAYS.—Messrs. Bloodworth, Brown, Cocke, Franklin.

*Ordered*, That the Secretary lay an attested copy of the foregoing resolution before the PRESIDENT OF THE UNITED STATES.

*Resolved*, That the thanks of the Senate of the United States be presented to the Commissioners of the city and county of Philadelphia, for the convenient and elegant accommodations furnished by them for the use of the Senate, during the residence of the National Government in the city; and that the President of the Senate be requested to convey this resolution in a letter to the said Commissioners.

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The PRESIDENT, agreeably to the joint resolution of the 12th instant, adjourned the Senate, to meet

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## SIXTH CONGRESS.—FIRST SESSION.

### PROCEEDINGS AND DEBATES

IN

### THE HOUSE OF REPRESENTATIVES.

MONDAY, December 2, 1799.

This being the constitutional day for the annual meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, viz:

*From New Hampshire.*—ABIEL FOSTER, JONATHAN FREEMAN, and WILLIAM GORDON.

*From Massachusetts.*—BAILEY BARTLETT, PHANUEL BISHOP, DWIGHT FOSTER, HARRISON G. OTIS, SILAS LEE, SAMUEL LYMAN, JOHN REED, SAMUEL SEWALL, THEODORE SEDGWICK, WILLIAM SHEPARD, GEORGE THATCHER, JOSEPH B. VARNUM, PELEG WADSWORTH, and LEMUEL WILLIAMS.

*From Connecticut.*—JONATHAN BRACE, SAMUEL W. DANA, JOHN DAVENPORT, WILLIAM EDMOND, CHAUNCEY GOODRICH, ELIZUR GOODRICH, and ROGER GRISWOLD.

*From Rhode Island.*—JOHN BROWN, and CHRISTOPHER G. CHAMPLIN.

*From Vermont.*—MATTHEW LYON, and LEWIS R. MORRIS.

*From New York.*—THEODORUS BAILEY, JOHN BIRD, WILLIAM COOPER, LUCAS ELMENDORPH, HENRY GLENN, EDWARD LIVINGSTON, JONAS PLATT, JOHN THOMPSON, and PHILIP VAN CORTLANDT.

*From New Jersey.*—JOHN CONDIT, FRANKLIN DAVENPORT, JAMES H. IMLAY, AARON KITCHELL, and JAMES LINN.

*From Pennsylvania.*—ROBERT BROWN, ANDREW GREGG, ALBERT GALLATIN, JOHN A. HANNA, JOSEPH HEISTER, JOHN WILKES KITTERA, MICHAEL LEIB, PETER MUHLENBERG, JOHN SMILIE, RICHARD THOMAS, ROBERT WALN, and HENRY WOODS.

*From Maryland.*—GEORGE BAER, WILLIAM CRAIK, GABRIEL CHRISTIE, GEORGE DENT, JOSEPH H. NICHOLSON, SAMUEL SMITH, and JOHN CHEW THOMAS.

*From Virginia.*—JOHN DAWSON, THOMAS EVANS, DAVID HOLMES, GEORGE JACKSON, JOHN MARSHALL, JOHN NICHOLAS, ANTHONY NEW, LEVEN POWELL, JOHN RANDOLPH, ABRAM TRIGG, and JOHN TRIGG.

*From North Carolina.*—WILLIS ALSTON, JOSEPH DICKSON, ARCHIBALD HENDERSON, WILLIAM H. HILL, NATHANIEL MACON, RICHARD STANFORD, and DAVID STONE.

*From South Carolina.*—ROBERT GOODLOE HARPER, ABRAHAM NOTT, JOHN RUTLEDGE, Jr., and THOMAS SUMTER.

*From Georgia.*—JAMES JONES, BENJAMIN TALIAFERRO.

*From Tennessee.*—WILLIAM CHARLES COLE CLAIBORNE.

A quorum of the whole number of members being present, the House proceeded to the election of a SPEAKER; when, on counting the ballots, the tellers reported that Mr. SEDGWICK had 42 votes; Mr. MACON, 27; Mr. DENT, 13; Mr. RUTLEDGE, 2; Mr. SUMTER, 1.

That the whole number of votes was 85, and the rules of the House requiring a majority of the members present to constitute a choice, neither of the above gentlemen were elected.

The House then proceeded to a second trial; when Mr. SEDGWICK had 44 votes; Mr. MACON, 38; Mr. DENT, 3; Mr. RUTLEDGE, 1.

Whereupon Mr. SEDGWICK was declared duly elected, and conducted to the chair accordingly.

Mr. SEDGWICK, upon taking the chair, addressed the House in the following words:

"GENTLEMEN: Although I am conscious of a deficiency of the talents which are desirable to discharge with usefulness and dignity the important duties of the high station to which I am raised, by the generous regard of the enlightened and virtuous representatives of my country, yet, reposing myself on the energy of their candid support, I will not shrink from the attempt.

"Accept, I pray you, gentlemen, my grateful acknowledgment of the honor you are pleased to confer; and, with it, an assurance, that no consideration shall seduce me to deviate, in the least degree, from a direct line of impartial integrity."

A message was received from the Senate, informing the House that, a sufficient number of members appearing to form a quorum, they had proceeded to the choice of a President *pro tempore*, when Hon. SAMUEL LIVERMORE was elected.

The House proceeded to the choice of a Clerk; when it appeared JONATHAN W. CONDY had 47 votes, JOHN BECKLEY, 39. [Pg 430]

Whereupon Mr. CONDY was declared by the SPEAKER to be duly elected.

*Ordered*, That a message be sent to the Senate, to inform that body of the election of the Hon. THEODORE SEDGWICK, as SPEAKER of the House of Representatives.

On motion of Mr. MACON, the House proceeded to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper; when JOSEPH WHEATON, THOMAS CLAXTON, and THOMAS DUNN, were unanimously elected.

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 administered by Mr. RUTLEDGE, one of the Representatives for the State of South Carolina, to the SPEAKER, and then the same oath or affirmation was administered by Mr. SPEAKER to each of the members present.

WILLIAM HENRY HARRISON having also appeared, as a Representative for the territory of the United States north-west of the river Ohio, the said oath was administered to him by Mr. SPEAKER.

The same affirmation, together with the affirmation 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 they had passed a resolution, appointing a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and inform him that Congress had met and were ready to receive any communications he might think proper to make; and, in case of concurrence, that Messrs. READ and BINGHAM were appointed a committee on behalf of the Senate.

The House concurred in the resolution, and Messrs. MARSHALL, RUTLEDGE, and SEWALL, were appointed to wait on the PRESIDENT, in conjunction with the committee from the SENATE.

The following letter was read by the Speaker.

72 WELBECK-STREET, LONDON,  
*September 20, 1798.*

SIR: I beg leave, through you, to offer to the House of Representatives of the United States, impressions of the two prints of the American Revolution, which I have lately caused to be published.<sup>[48]</sup>

The importance of the events, and the illustrious characters of the two great men to whose memory they are particularly devoted, give to these works their best claim to your notice; and the patriotism of my countrymen, I trust, will give them a kinder reception than their intrinsic merit might entitle me to hope.

With great respect, I have the honor to be, sir, your most obedient, humble servant,

JNO. TRUMBULL.

The SPEAKER *of the House of Reps. U. S.*

*Resolved*, That the rules and orders of proceeding established by the late House of Representatives, shall be deemed and taken to be the rules and orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

*Resolved*, That each member be furnished with three newspapers, printed in this city, during the session, at the expense of this House.

Mr. MARSHALL, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, reported, that they had performed that service; and that the PRESIDENT had appointed to-morrow forenoon, 12 o'clock, to meet both Houses in the Representatives' Chamber.

The House then adjourned, till to-morrow morning at eleven o'clock.

### **TUESDAY, December 3.**

JAMES A. BAYARD, from Delaware, appeared produced his credentials, was qualified, and took his seat in the House.

#### ***President's Speech.***

*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.

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 addressed them as follows. (For the Speech, see Senate proceedings, *ante*.)

The PRESIDENT OF THE UNITED STATES then withdrew and the two Houses separated.

A copy of the Speech being delivered by the PRESIDENT to the SPEAKER, and read by the Clerk, it was ordered, that it be committed to a Committee of the whole House to-morrow.

### **WEDNESDAY, December 4.**

Mr. LIVINGSTON said he conceived some notice ought to be taken of the letter received from Mr.



TRUMBULL, and therefore moved that it be referred to a select committee. Agreed to, and Messrs. LIVINGSTON, TALIAFERRO, and HILL, were appointed.

### ***The President's Speech.***

The House went into a Committee of the Whole on the PRESIDENT'S Speech, Mr. RUTLEDGE in the chair. The Speech having been read,

Mr. MARSHALL moved the following resolution, which was agreed to by the committee, viz:

*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, on the opening of the present session, containing assurances that this House will duly attend to the important objects recommended by him to their consideration.

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The committee rose, and the resolution having been agreed to by the House, Messrs. MARSHALL, RUTLEDGE, SEWALL, LIVINGSTON, and NICHOLAS, were appointed a committee to draft the Address.

### **FRIDAY, December 6.**

Mr. MARSHALL, from the committee appointed to draft an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES, at the commencement of the present session, reported the same, which was committed to a Committee of the Whole on Monday next, and ordered to be printed.

Mr. LIVINGSTON, from the committee to whom was referred the letter of Mr. Trumbull, reported the following resolution, which was adopted by the House:

*"Resolved*, That the two elegant prints offered by Mr. Trumbull, be accepted; and that the Speaker be instructed to write an answer, expressive of the pleasure with which this House has observed his genius and talents exerted in the patriotic task of celebrating the events which led to his country's independence, and dedicated to the memory of those heroes who fell in its defence."

### **MONDAY, December 9.**

JOSIAH PARKER and ROBERT PAGE, from Virginia, appeared, produced their credentials, were qualified, and took their seats.

### ***Address to the President.***

The House resolved itself into a Committee of the Whole, on the Address to be presented to the PRESIDENT OF THE UNITED STATES in answer to his Speech to both Houses, at the commencement of the present session.

Mr. GREGG moved, that the words distinguished by italics, in the third and fourth lines of the second paragraph of the Address, be struck out, and that the words "act in" be inserted in their stead; which produced a short debate, and was finally negatived.

The committee then rose, and the Address was reported without amendment; and was agreed to by the House, in the words following, viz:

*To the President of the United States:*

SIR: While the House of Representatives contemplate the flattering prospects of abundance from the labors of the people, by land and by sea, the prosperity of our extended commerce, notwithstanding the interruptions occasioned by the belligerent state of a great part of the world, the return of health, industry and trade, to those cities which have lately been afflicted with disease, and the various and inestimable advantages, civil and religious, which, secured under our happy frame of Government, are continued to us unimpaired, we cannot fail to offer up to the benevolent Deity our sincere thanks for these the merciful dispensations of his protecting Providence.

That any portion of the people of America should permit themselves, amid such numerous blessings, to *be seduced by the arts and misrepresentations of designing men into an* open resistance of a law of the United States, cannot be heard without deep and serious regret. Under a constitution where the public burdens can only be imposed by the people themselves, for their own benefit, and to promote their own objects, a hope might well have been indulged that the general interest would have been too well understood, and the general welfare too highly prized, to have produced in any of our citizens a disposition to hazard so much felicity, by the criminal effort of a part, to oppose with lawless violence the will of the whole. While we lament that depravity which could produce a defiance of the civil authority, and render indispensable the aid of the military force of the nation, real consolation is to be derived from the promptness and fidelity with which that aid was afforded. That zealous and active co-operation with the judicial power, of the volunteers and militia called into service, which has restored order and submission to the laws, is a pleasing evidence of the attachment of our fellow-

citizens to their own free Government, and of the truly patriotic alacrity with which they will support it.

To give due effect to the civil administration of Government, and to ensure a just execution of the laws, are objects of such real magnitude as to secure proper attention to your recommendation of a revision and amendment of the judiciary system.

Highly approving, as we do, the pacific and humane policy which has been invariably professed and sincerely pursued by the Executive authority of the United States, a policy which our best interests enjoined and of which honor has permitted the observance, we consider as the most unequivocal proof of your inflexible perseverance in the same well chosen system, your preparation to meet the first indications on the part of the French Republic, of a disposition to accommodate the existing differences between the two countries, by a nomination of Ministers on certain conditions, which the honor of our country unquestionably dictated, and which its moderation had certainly given it a right to prescribe. When the assurances thus required of the French Government, previous to the departure of our Envoys, had been given through their Minister of Foreign Relations, the direction that they should proceed on their mission, was, on your part, a completion of the measure, and manifests the sincerity with which it was commenced. We offer up our fervent prayers to the Supreme Ruler of the Universe for the success of their embassy, and that it may be productive of peace and happiness to our common country. The uniform tenor of your conduct, through a life useful to your fellow-citizens and honorable to yourself, gives a sure pledge of the sincerity with which the avowed objects of the negotiation will be pursued on your part, and we earnestly pray that similar dispositions may be displayed on the part of France. The differences which unfortunately subsist between the two nations, cannot fail, in that event, to be happily terminated. To produce this end, to all so desirable, firmness, moderation, and union at home, constitute, we are persuaded, the surest means. The character of the gentlemen you have deputed, and still more, the character of the Government which deposes them, are safe pledges to their country, that nothing incompatible with its honor or interest, nothing inconsistent with our obligations of good faith or friendship to any other nation, will be stipulated.

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We learn, with pleasure, that our citizens, with their property, trading to those ports of St. Domingo with which commercial intercourse has been renewed, have been duly respected, and that privateering from those ports has ceased.

With you, we sincerely regret that the execution of the sixth article of the Treaty of Amity, Commerce, and Navigation, with Great Britain, an article produced by a mutual spirit of amity and justice, should have been unavoidably interrupted. We doubt not the same spirit of amity, and the same sense of justice in which it originated, will lead to satisfactory explanations; and we hear with approbation that our Minister at London will be immediately instructed to obtain them. While the engagements which America has contracted by her treaty with Great Britain, ought to be fulfilled with that scrupulous punctuality and good faith to which our Government has ever so tenaciously adhered, yet no motive exists to induce, and every principle forbids us to adopt a construction which might extend them beyond the instrument by which they are created. We cherish the hope that the Government of Great Britain will disclaim such extension, and by cordially uniting with that of the United States for the removal of all difficulties, will soon enable the boards appointed under the sixth and seventh articles of our treaty with that nation, to proceed, and bring the business committed to them respectively to a satisfactory conclusion.

The buildings for the accommodation of Congress, and of the President, and for the public offices of the Government at its permanent seat, being in such a state as to admit of a removal to that District by the time prescribed by the act of Congress, no obstacle, it is presumed, will exist to a compliance with the law.

With you, sir, we deem the present period critical and momentous. The important changes which are occurring, the new and great events which are every hour preparing in the political world, the spirit of war which is prevalent in almost every nation with whose affairs the interests of the United States have any connection, demonstrate how unsafe and precarious would be our situation, should we neglect the means of maintaining our just rights. Respecting, as we have ever done, the rights of others, America estimates too correctly the value of her own, and has received evidence too complete that they are only to be preserved by her own vigilance, ever to permit herself to be seduced by a love of ease, or by other considerations, into that deadly disregard of the means of self-defence, which could only result from a carelessness as criminal as it would be fatal concerning the future destinies of our growing Republic. The result of the mission to France is, indeed, sir, uncertain. It depends not on America alone. The most pacific temper will not always ensure peace. We should therefore exhibit a system of conduct as indiscreet as it would be new in the history of the world, if we considered the negotiation happily terminated because we have attempted to

commence it, and peace restored because we wish its restoration. But, sir, however this mission may terminate, a steady perseverance in a system of national defence, commensurate with our resources and the situation of our country, is an obvious dictate of duty. Experience, the parent of wisdom, and the great instructor of nations, has established the truth of your position, that, remotely as we are placed from the belligerent nations, and desirous as we are, by doing justice to all, to avoid offence to any, yet nothing short of the power of repelling aggressions will secure to our country a rational prospect of escaping the calamities of war or national degradation.

In the progress of the session, we shall take into our serious consideration the various and important matters recommended to our attention.

A life devoted to the service of your country, talents and integrity which have so justly acquired and so long retained the confidence and affection of your fellow-citizens, attest the sincerity of your declaration, that it is your anxious desire so to execute the trust reposed in you as to render the people of the United States prosperous and happy.

*Resolved*, That the SPEAKER, attended by the House, do present the said Address.

MESSE<sup>S</sup>. MARSHALL, RUTLEDGE, and SEWALL, were appointed a committee to wait on the PRESIDENT, to know when and where he would be ready to receive the Address; and having performed that service, reported, that the PRESIDENT had appointed to-morrow, two o'clock, for that purpose, at his own house.

### ***Delegate from North-west Territory.***

*Ordered*, That the credentials of WILLIAM HENRY HARRISON, who has appeared as a Delegate from the territory of the United States north-west of the river Ohio, be referred to the Committee of Elections; and that they be directed to report whether the Territory is entitled to elect a Delegate who may have a seat in this House.

## **TUESDAY, December 10.**

MATTHEW CLAY, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

### ***Address to the President.***

The hour having arrived which the PRESIDENT had appointed, Mr. SPEAKER, attended by the members present, proceeded to the President's house, to present him their Address in answer to his Speech at the opening of the present session; and having returned, the PRESIDENT'S reply thereto was read, as follows:

*Gentlemen of the House of Representatives:*

This very respectful address from the Representatives of the people of the United States at their first assembly, after a fresh election, under the strong impression of the public opinion and national sense, at this interesting and singular crisis of our public affairs, has excited my sensibility, and receives my sincere and grateful acknowledgments.

As long as we can maintain, with harmony and affection, the honor of our country, consistently with its peace, externally and internally, while that is attainable, or in war, when that becomes necessary, assert its real independence and sovereignty, and support the constitutional energies and dignity of its government, we may be perfectly sure, under the smiles of Divine Providence, that we shall effectually promote and extend our national interests and happiness.

The applause of the Senate and House of Representatives, so justly bestowed upon the volunteers and militia, for their zealous and active co-operation with the judicial power, which has restored order and submission to the laws, as it comes with peculiar weight and propriety from the Legislature, cannot fail to have an extensive and permanent effect, for the support of Government, upon all those ingenuous minds who receive delight from the approving and animating voice of their country.

JOHN ADAMS.

UNITED STATES, *December 10.*

And then the House adjourned till to-morrow morning, 11 o'clock.

## **WEDNESDAY, December 11.**

HENRY LEE, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

### ***The Direct Tax Law.***

Mr. HARPER said, that a difficulty had arisen in the State of Pennsylvania, relative to the execution of the law "for the valuation of lands and dwelling-houses, and for the enumeration of slaves, within the United States," which the Commissioners for that State did not conceive themselves competent to decide upon; that the Commissioners had referred the case to the Secretary of the Treasury, whose opinion it was, that they were possessed of sufficient power to obviate the difficulties complained of; but the Commissioners, on again taking the subject into consideration, were still of opinion they were unable to act without legislative aid, and therefore had made application to the Committee of Ways and Means, who, Mr. H. said, had directed him to move for leave to bring in a bill, further to amend the act entitled "An act to provide for the valuation of lands and dwelling-houses, and for the enumeration of slaves within the United States," which was granted.

### ***Franking Privilege to W. H. Harrison.***

Mr. HARPER laid the following resolution on the table.

*Resolved*, That a committee be appointed to prepare and bring in a bill, extending the privilege of franking to W. H. Harrison, a delegate from the territory of the United States north-west of the river Ohio, and making provision for his compensation.

Mr. H. said, that according to law, that gentleman had the right only of speaking and giving his opinion upon any question before the House, but was not entitled to a vote, or any other privilege; but as the privileges of a member had been extended on a former occasion to a delegate from the South-western Territory, he had no doubt they would be granted on the present.

### **MONDAY, December 16.**

THOMAS HARTLEY, from Pennsylvania, and JOSEPH EGGLESTON, from Virginia, appeared, produced their credentials, were qualified, and took their seats in the House.

### **WEDNESDAY, December 18.**

#### ***Death of General Washington.***

Mr. MARSHALL, in a voice that bespoke the anguish of his mind, and a countenance expressive of the deepest regret, rose, and delivered himself as follows:

Mr. Speaker: Information has just been received, that our illustrious fellow-citizen, the Commander-in-Chief of the American Army, and the late President of the United States, is no more!

Though this distressing intelligence is not certain, there is too much reason to believe its truth. After receiving information of this national calamity, so heavy and so afflicting, the House of Representatives can be but ill fitted for public business. I move you, therefore, they adjourn.

The motion was unanimously agreed to; and then the House adjourned till to-morrow morning, 11 o'clock.

### **THURSDAY, December 19.**

SAMUEL GOODE, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

#### ***Death of General Washington.***

Mr. MARSHALL addressed the Chair as follows:

Mr. Speaker: The melancholy event which was yesterday announced with doubt, has been rendered but too certain. Our WASHINGTON is no more! The Hero, the Sage, and the Patriot of America—the man on whom in times of danger every eye was turned and all hopes were placed—lives now only in his own great actions, and in the hearts of an affectionate and afflicted people.

If, sir, it had even not been usual openly to testify respect for the memory of those whom Heaven had selected as its instruments for dispensing good to men, yet such has been the uncommon worth, and such the extraordinary incidents which have marked the life of him whose loss we all deplore, that the whole American nation, impelled by the same feelings, would call with one voice for a public manifestation of that sorrow which is so deep and so universal.

More than any other individual, and as much as to any one individual was possible, has he contributed to found this our wide-spreading empire, and to give to the Western world its independence and its freedom.

Having effected the great object for which he was placed at the head of our armies, we have seen him converting the sword into the ploughshare, and voluntarily sinking the soldier in the citizen.

When the debility of our federal system had become manifest, and the bonds which connected the parts of this vast continent were dissolving, we have seen him the Chief of those patriots who

formed for us a constitution, which, by preserving the Union, will, I trust, substantiate and perpetuate those blessings our Revolution had promised to bestow.

In obedience to the general voice of his country, calling on him to preside over a great people, we have seen him once more quit the retirement he loved, and in a season more stormy and tempestuous than war itself, with calm and wise determination, pursue the true interests of the nation, and contribute, more than any other could contribute, to the establishment of that system of policy which will, I trust, yet preserve our peace, our honor, and our independence.

Having been twice unanimously chosen the Chief Magistrate of a free people, we see him at a time when his re-election, with the universal suffrage, could not have been doubted, affording to the world a rare instance of moderation, by withdrawing from his high station to the peaceful walks of private life.

However the public confidence may change, and the public affections fluctuate with respect to others, yet with respect to him they have in war and in peace, in public and in private life, been as steady as his own firm mind, and as constant as his own exalted virtues.

Let us then, Mr. Speaker, pay the last tribute of respect and affection to our departed friend—let the Grand Council of the nation display those sentiments which the nation feels.

For this purpose I hold in my hand some resolutions, which I will take the liberty to offer to the House.

Mr. MARSHALL having handed them in at the table, they were read, and unanimously agreed to by the House, in the words following, to wit:

The House of Representatives of the United States, having received intelligence of the death of their highly valued fellow-citizen, GEORGE WASHINGTON, General of the Armies of the United States, and sharing the universal grief this distressing event must produce, *unanimously resolve*:

1. That this House will wait on the President of the United States, in condolence of this national calamity.
2. That the Speaker's chair be shrouded with black, and that the members and officers of the House wear mourning, during the session.
3. That a joint committee of both Houses be appointed to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen.
4. That when this House adjourn, it will adjourn until Monday next.

*Ordered*, That Mr. MARSHALL and Mr. SMITH be appointed a committee to wait on the PRESIDENT OF THE UNITED STATES, to know when and where he will receive this House for the purpose expressed in the first resolution.

*Ordered*, That Mr. MARSHALL, Mr. CRAIK, Mr. HENRY LEE, Mr. EGGLESTON, Mr. SMITH, Mr. STONE, Mr. RUTLEDGE, Mr. ABIEL FOSTER, Mr. MUHLENBERG, Mr. VAN CORTLANDT, Mr. DWIGHT FOSTER, Mr. FRANKLIN DAVENPORT, Mr. CLAIBORNE, Mr. MORRIS, Mr. JOHN BROWN, and Mr. TALIAFERRO, be a committee, jointly with such committee as may be appointed on the part of the Senate, for the purpose expressed in the third resolution.

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

A Message was received from the PRESIDENT OF THE UNITED STATES, which, together with the letter accompanying the same, was read and referred to the committee last appointed, and is as follows:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

The letter herewith transmitted, will inform you that it has pleased Divine Providence to remove from this life our excellent fellow-citizen, GEORGE WASHINGTON, by the purity of his character, and a long series of services to his country, rendered illustrious through the world. It remains for an affectionate and grateful people, in whose hearts he can never die, to pay suitable honor to his memory.

JOHN ADAMS.

UNITED STATES, *Dec. 19, 1799.*

"MOUNT VERNON, *Dec. 15, 1799*

"SIR: It is with inexpressible grief that I have to announce to you the death of the great and good General WASHINGTON. He died last evening, between ten and eleven o'clock, after a short illness of about twenty hours. His disorder was an inflammatory sore throat, which proceeded from a cold, of which he made but little complaint on Friday. On Saturday morning, about three o'clock, he became ill. Doctor Craik attended him in the morning, and Doctor Dick, of Alexandria, and Doctor Brown, of Port Tobacco, were soon after called in. Every medical assistance was offered, but without the desired effect. His last scene corresponded with the whole tenor of his life; not a groan, nor a complaint, escaped him in extreme distress. With perfect resignation, and in full possession of his reason, he closed his well spent life.

"I have the honor to be, sir, your most obedient and very humble servant,

"TOBIAS LEAR.

"The PRESIDENT OF THE UNITED STATES."

Mr. MARSHALL, 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 this House in condolence of the national calamity, reported that the committee had, according to order, performed that service, and that the PRESIDENT signified to them it would be convenient for him to receive this House at one o'clock this afternoon, at his own house.

A message from the Senate informed the House that the Senate have agreed to the resolution passed by the House of Representatives for the appointment of a joint committee of both Houses to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of a citizen, first in war, first in peace, and first in the hearts of his countrymen; and have appointed Mr. DAYTON, Mr. BINGHAM, Mr. DEXTER, Mr. GUNN, Mr. LAURANCE, and Mr. TRACY, a committee on their part.

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The SPEAKER, attended by the House, then withdraw to the house of the PRESIDENT OF THE UNITED STATES, when Mr. SPEAKER addressed the PRESIDENT as follows:

SIR: The House of Representatives, penetrated with a sense of the irreparable loss sustained by the nation in the death of that great and good man, the illustrious and beloved WASHINGTON, wait on you, sir, to express their condolence on this melancholy and distressing event.

To which the PRESIDENT replied as follows:

*Gentlemen of the House of Representatives:*

I receive, with great respect and affection, the condolence of the House of Representatives, on the melancholy and affecting event, in the death of the most illustrious and beloved personage which this country ever produced. I sympathize with you, with the nation, and with good men through the world, in this irreparable loss sustained by us all.

JOHN ADAMS.

UNITED STATES, *Dec. 19, 1799.*

### **MONDAY, December 23.**

THOMAS T. DAVIS, from Kentucky; ROBERT WILLIAMS, from North Carolina; and JOHN DENNIS, from Maryland; appeared, produced their credentials, were qualified, and took their seats in the House.

#### ***Respect to the Memory of General Washington.***

Mr. MARSHALL, from the joint committee appointed to report what testimony of respect ought to be paid to the memory of the man first in war, first in peace, and first in the hearts of his countrymen, made a report in part, which he delivered in at the table, where it was twice read, and unanimously agreed to, in the words following, to wit:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That a marble monument be erected by the United States, in the capitol, in the city of Washington, and that the family of General WASHINGTON be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

*And be it further resolved,* That there be a funeral procession from Congress Hall to the German Lutheran Church, in honor of the memory of General GEORGE WASHINGTON, on Thursday, the 26th instant, and that an oration be prepared at the request of Congress, to be delivered before both Houses on that day, and that the President of the Senate and Speaker of the House of Representatives be desired to request one of the members of Congress to prepare and deliver the same.

*And be it further resolved,* That it be recommended to the people of the United States to wear crape on the left arm, as mourning for thirty days.

*And be it further resolved,* That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. WASHINGTON, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General GEORGE WASHINGTON, in the manner expressed in the first resolution.

*And be it further resolved,* That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States the recommendation contained in the third resolution.

*Ordered,* That the Clerk of this House do carry the said resolutions to the Senate, and desire their concurrence.

Previous to the question being put upon the first resolution, Mr. H. LEE of Virginia, rose, and addressed the Chair as follows:

Mr. Speaker: In executing the task assigned to the committee, it will be observed much remains to be done; so far as they have gone, and as far as they may go, one hope is cherished, that whatever is done, will be unanimously adopted.

This will be most pleasing to our constituents, and most honorable to the character we all honor. Out of a wish to execute in the best manner the direction of the House, a difference of opinion will naturally prevail. This difference of opinion, however commendable, upon ascertaining the mode of public mourning, ought to be suppressed when we come to act; for unanimity then is, as I before stated, most to be wished for, whether the feelings of our constituents, or our intentions, on the celebrity which all desire to give to the high occasion, govern.

A message was received from the Senate, announcing their concurrence in the report of the joint committee made this day; and then the House adjourned till to-morrow morning.

## **TUESDAY, December 24.**

### ***Respect to the Memory of General Washington.***

The SPEAKER informed the House that, conformably to the resolution of Congress, the President of the Senate and the Speaker of the House of Representatives had requested Major General HENRY LEE, one of the Representatives from the State of Virginia, to prepare and deliver a funeral oration before both Houses, on Thursday, the twenty-sixth instant, in honor of the memory of GEORGE WASHINGTON, late General of the Armies of the United States; and that Mr. LEE had been pleased to accept of the appointment.

And, on motion, the House adjourned.

## **THURSDAY, December 26.**

This being the day appointed by the resolution of Congress for the funeral procession in honor of the memory of GEORGE WASHINGTON, late General of the Armies of the United States, the House proceeded to the German Lutheran Church, where they attended the funeral oration, prepared and delivered on the occasion by Major General LEE, one of the members of this House for the State of Virginia.

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The House, having returned, adjourned until to-morrow morning.

## **FRIDAY, December 27.**

JOHN FOWLER, from Kentucky, appeared, produced his credentials, was qualified, and took his seat in the House.

### ***Respect to the Memory of General Washington.***

On a motion made and seconded that the House do come to the following resolution, to wit:

"The House of Representatives of the United States, highly gratified with the manner in which Mr. LEE has performed the service assigned to him under the resolution desiring the President of the Senate and Speaker of the House of Representatives to request one of the members of Congress to prepare and deliver a funeral oration on the death of GEORGE WASHINGTON; and desirous of communicating to their fellow-citizens, through the medium of the press those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, which, felt by all, have on this melancholy occasion been so well expressed:

"*Resolved*, That the Speaker present the thanks of this House to Mr. LEE, for the oration delivered by him to both Houses of Congress on Thursday, the twenty-sixth instant; and request that he will permit a copy thereof to be taken for publication:"

The question was taken that the House do agree to the same, and unanimously resolved in the affirmative.

## **MONDAY, December 30.**

### ***Respect to the Memory of General Washington.***

The SPEAKER informed the House that, in pursuance of the resolution of Friday last, he had addressed to Major General HENRY LEE, one of the members for the State of Virginia, the following letter:

"PHILADELPHIA, Dec. 27, 1799.

"DEAR SIR: The enclosed resolutions, which unanimously passed the House of Representatives this day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to

you, in preparing and delivering a funeral oration on the death of General WASHINGTON. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

"Allow me, while performing this pleasing task of official duty in communicating an act of the Representatives of the people, so just to you and so honorable to themselves, to embrace the opportunity to declare that I am, personally, with great esteem and sincere regard, dear sir, your friend and obedient servant,

"THEODORE SEDGWICK.

"The Hon. Maj. Gen. LEE."

To which Mr. LEE had replied as follows:

"FRANKLIN COURT, *Dec. 28, 1799.*

"DEAR SIR: I owe to the goodness of the House of Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

"I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

"Sincerely reciprocating the personal considerations with which you honor me, I am, very respectfully, sir, your friend and obedient servant,

"HENRY LEE.

"The SPEAKER of the House of Reps."

Mr. MARSHALL, from the joint committee appointed to consider and report what measures ought to be adopted in honor of the memory of General WASHINGTON, made another report in part, which was unanimously agreed to by the House, in the words following, to wit:

*Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That it be recommended to the people of the United States to assemble on the twenty-second day of February next, in such numbers and manner as may be convenient, publicly to testify their grief for the death of General GEORGE WASHINGTON, by suitable eulogies, orations, and discourses, or by public prayers.*

*And be it further resolved, That the President of the United States be requested to recommend the same, by a proclamation for that purpose.*

*Ordered, That the Clerk of this House do carry the said resolutions to the Senate, and desire their concurrence.*

### **THURSDAY, January 2, 1800.**

RICHARD DOBBS SPAIGHT, from North Carolina, appeared, produced his credentials, was qualified, and took his seat.

#### ***Petition of Free Blacks.***

Mr. WALN presented a petition of Absalom Jones and others, free men of color, of the city and county of Philadelphia, praying for a revision of the laws of the United States relative to the slave trade; of the act relative to fugitives from justice; and for the adoption of such measures as shall in due course emancipate the whole of their brethren from their present situation; which he moved to have referred to the committee appointed to inquire whether any and what alterations ought to be made in the existing law prohibiting the slave trade from the United States to any foreign place or country.

The petitioners, after mentioning their sense of the bounties of Providence in their freedom, and the happiness they felt under such a form of Government, represent that they cannot but be impressed with the hardships under which numbers of their color labored, who they conceived equal objects of representation and attention with themselves or others under the constitution. That the solemn compact, the constitution, was violated by the trade of kidnapping, carried on by the people of some of the Southern States on the shores of Maryland and Delaware, by which numbers were hurried into holes and cellars, torn from their families and transported to Georgia, and there inhumanly exposed to sale, which was degrading to the dignified nature of man. That by these and other measures injurious to the human species, there were 700,000 blacks now in slavery in these States. They stated their application to Congress to be, not for the immediate emancipation of the whole, knowing that their degraded state and want of education would render that measure improper, but they ask an amelioration of their hard situation. They prayed that the act called the fugitive bill, which was very severe on that race of people, might be considered; also that the African slave trade might be put a stop to.

Mr. WALN moved its reference to the committee appointed to prohibit carrying on the slave trade to any foreign place or country.

Mr. RUTLEDGE thought any reference at all very improper; he hoped it would be laid on the table,



and with a view never to be called up hereafter. Petitions of this sort had repeatedly come before the House, only with the difference of transfer of hands. When the Congress sat at New York, they spent much time and attention on the subject, but no sooner had it been decided that nothing could be done, than the same scenes were acted over again by repeatedly petitioning. Those gentlemen who used to come forward, to be sure, had not avowedly come forward again, but had now put it into the hands of the black *gentlemen*. They now tell the House these people are in slavery—I thank God they are! if they were not, dreadful would be the consequences. They say they are not represented. To be sure a great number of them are not. Farther, they say they are sent to the Southern States. Who can prevent that? Persons possessing slaves have a right to send them there if they choose. They tell you that they are brought from Africa. This matter is in a train to be prevented, the subject being now in the hands of a committee. Already had too much of this new-fangled French philosophy of liberty and equality found its way and was too apparent among these *gentlemen* in the Southern States, by which nothing would do but their liberty. This appeared to be the intention of the petition, but he supposed the people of the Eastern States had felt as much in having them among them as those of the Southern States in losing them, and therefore he believed gentlemen from those parts would vote with them. However, he considered this subject very improper and unconstitutional to discuss, and, from the ill effects it might produce, should say no more.

Mr. WALN thought the gentleman mistaken as to the nature of the petition; it related but two grievances: one was the operation of the fugitive act, by which free men were carried and sold into slavery, and the other was the slave trade. He did not wish to enter into general principles, because he conceived it as improper as any gentleman, but he could see no good reason why the petition might not be committed; every petition presented to the House ought to receive that attention, and a rejection of the present without examination could have no good effect.

Mr. SMILIE was much surprised at the opposition of the gentleman from South Carolina to the reference. To be sure a great part of what these people asked, as far as he was acquainted with it, was out of their power to grant, but there was much of the petition which was within the power of the House. So far as they had power, he considered it the duty of the House to attend and grant relief. He could wish to drop some ideas on the situation of those people, but felt a contrary impulse from motives of prudence. However, he must consider them as a part of the human species, equally capable of suffering and enjoying with others, and equally objects of attention, and therefore they had a claim to be heard.

Mr. OTIS hoped the petition would not be committed; he had never seen a petition presented under a more dangerous and unpleasant aspect. It appeared to be subscribed by a number of individuals who were incapable of writing their names, or of reading the petition, and, *a fortiori*, of digesting the principles of it. It therefore was a petition of certain men made out by other men, who ought to have come forward themselves, but had forborne. To encourage a measure of the kind would have an irritating tendency, and must be mischievous to America very soon. It would teach them the art of assembling together, debating, and the like, and would soon, if encouraged, extend from one end of the Union to the other. A great part of the petition was improper, and the other part entirely unnecessary. No particular object or evils were pointed out in the fugitive law, but the truth was, they wanted a repeal of the law. Although, he thanked God he had no slaves, nor ever wished to possess any, yet he thought the subject ought not to be meddled with by the General Government, and if any grievances existed, they were properly and only objects of legislation in the several States. It was the duty, and he thought the interest of the States, while they were kept in servitude, to ameliorate their situation as much as consisted with security. He thought those who did not possess that species of property had better leave the regulation of it to those who were cursed with it. However, it was unjust to intermeddle with it to the injury of the possessors.

Mr. H. LEE observed that gentlemen were sent to that House to preserve the rights of the people and the rights of property. That property which the people of the Southern States possess consisted of slaves, and therefore Congress had no authority but to protect it, and not take measures to deprive the citizens of it. He said he held himself not second to any gentleman in a genuine attachment to the rights of humanity, but he could not believe that great ends would be answered by the reference of the petition, but much evil might accrue. It contained sentiments which he thought it would be highly improper so far to encourage. One object prayed for in this petition was now in the hands of a committee; let that committee report respecting the Guinea trade, let it be entirely obliterated; to that he would agree with all his heart, but he hoped the House would never intermeddle with the property of any of the citizens. Instead of voting with the worthy member who wished it to lie on the table, he would have it returned to the gentleman who presented it, as the only effectual means of checking an injurious practice.

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Mr. RUTLEDGE, in addition to his former arguments, observed, that so improper was it to consider this subject that some of the States would never have adopted the federal form of Government if it had not been secured to them that Congress would never legislate on the subject of slavery. Inasmuch, therefore, as it might rouse the jealousy and fears of those States, the least attention paid to it might do mischief.

Mr. THATCHER said that gentlemen generally set out wrong, on this subject, and leave off about half right; they debated till they were almost tired, and then the petition was not to be committed. If Congress had not power to legislate on the African trade, then why did they say it was with a committee? If they had power, where was the impropriety of referring, at least that part which could be considered? Would any gentleman say that it was policy not to legislate about 700,000 enemies in the very body of the United States? While they were slaves they were

enemies. He declared a greater evil than the very principle could not exist; it was a cancer of immense magnitude, that would some time destroy the body politic, except a proper legislation should prevent the evil. It must come before the House sooner or later. Then why postpone it? It was true the Eastern States were now suffering from the streams which issued from this great and dangerous fountain, but the evil ought to be stopped, ere it become too strong.

Mr. BROWN, of Rhode Island, said he was in hopes that every member belonging to the Northern States would have seen by this time the impropriety of encouraging slaves to come from the Southern States to reside as vagabonds and thieves among them, and have been tired of the bad policy. No subject surely was so likely to cause a division of the States as that respecting slaves. He did not hold a slave in the world, he said, but he was as much for supporting the rights and property of those who did, as though he was a slave owner. He considered this as much personal property as a farm or a ship, which was incontestably so. He went into a view of the federal compact, to argue the impropriety of legislating on the subject. This petition, he said, did not come from the blacks, but from a combination of people who had troubled Congress for many years past, and he feared never would cease. He did not fear the power of the 700,000 enemies that the gentleman had pointed out, since there were five millions to withstand them: they could at any time subdue them. He begged that the gentleman, who put the petition on the table, might be desired to take it back again. He was sorry to see the commitment supported by two such worthy members of the House, both good Federalists. [A laugh.]

Mr. WALN contended, that at least the House had the power of legislating on the state of free blacks as well as other people, and on the slave trade, much of which was still carrying on from Rhode Island, Boston and Pennsylvania. This ought to be looked into. He denied that any idea had ever entered his mind on presenting the petition either to debate on the subject, or to will an emancipation of the slaves. Gentlemen from the Southern States appeared to lament there were so many among them, but their conduct was very contrary to their declaration.

Mr. HILL thought if any evil existed under any law now in force, a committee ought to be appointed, to examine into and correct it: but he hoped the petition would not be committed. It was to be lamented that this kind of property did exist; but it did exist, and was sanctioned by the constitution. That being the case, the House ought to set their faces against any innovations on it, either directly or indirectly.

Mr. DENNIS rose, he said, principally because he conceived the petition implicated the justice of the States of Maryland and Delaware, respecting the abominable practice of kidnapping. In justice to the State he represented, he must say that none of this evil was attributable to that State, because they had enacted extremely penal laws to stop it. He wished the petition to lie on the table, because the objects of it appeared to be extremely multifarious, and he believed but few members knew its contents, from the different opinions they had advanced. He wished them to have an opportunity of examining it.

Mr. RANDOLPH hoped that the conduct of the House would be so decided as to deter the petitioners, or any persons acting for them, from ever presenting one of a similar nature hereafter. The effects must be extremely injurious. He did wish that the conduct of the House would have been so indignant as to have passed it over without discussion. He should not, therefore, say any thing that would tend to encourage that discussion. The constitution had put it out of the power of the House to do any thing in it, and therefore he hoped the motion for a reference would be lost by a decided majority, and this be the last time the business of the House would be entered upon, and the interest and feelings of the Southern States be put in jeopardy, by similar applications.

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Mr. CHRISTIE said the gentleman was mistaken, if he thought it would be the last time, for a certain society had thought it their duty to present petitions of this nature to Congress every year since he was acquainted with it; but he hoped this, which came from that source, but through other hands, would have the fate of all the rest, and go under the table instead of upon it. As to the fugitive law, he would wish it to be taken up, and if no other member moved it, he should; but not for the purpose of repeal or weakening, but to make it stronger. There was now a fine laid upon any person who should harbor a black, knowing him or her to be a slave; he wished the provision should be that the persons harboring should know that he or she was not a slave. He mentioned the great desire of his State to prevent kidnapping, for which their laws were very severe.

Mr. HARPER had hoped that the House so well understood this subject, as to the people who instigated the petitioners to come forward, who well knew that nothing could be done by Congress, as to decide on it instantly. This was the act of a religious body of people whose fanaticism leads them to think it a bounden duty to come to the House every year, though they now come in a different name. By this measure they had discharged their duty; all that now remained was for the House to discharge theirs. He hoped, from the present time, they should merely let the petition be read and pass it over in silence—for he expected that society would continue presenting petitions. The obvious tendency of agitating this question would only be to create discontent in a class of people whom it was out of the power of the Legislature to change the situation of. He called upon gentlemen to say whether a temper of revolt was not more perceptible in that quarter? It was; and what was the cause of it but that they were not let alone by those people; but if others would disturb them, he hoped at least that House would cease to do it.

Mr. DANA said if the petition before the House contained nothing but a farago of the French metaphysics of liberty and equality, he should think that it was likely to produce some of the

dreadful scenes of St. Domingo. Or if he believed it was only the effects of a religious fanaticism in a set of men who thought they were doing their duty, though he thought the subject quite out of the power of Congress, he might be disposed to think it quite wrong. But when he perceived a petition, addressed in language which was very decent, and which expressly declared that the petitioners did not wish the House to do what was inconsistent with the constitution, but only asked an amelioration of the severities under which people of their color labored, he thought it ought to be received and committed. He did not think the gentleman who presented it ought to withdraw it, nor was he the least culpable, but executed a duty he conceived him bound to.

Mr. JONES said the petition threw so much aspersion upon the State he represented (Georgia) that he must think it his duty to rise. Why was that State to be selected out from all others? However, he should follow the petition in its parts, in order to show that the petitioners actually had asked what it was not in the power of the House to legislate upon—emancipation. It was said to merely affect the slave trade.

First, the petitioners contemplated that those people (the slaves) ought to be represented, "with us and the rest of the citizens of the United States." Then they speak of the Federal compact, in which they consider those people as interested in common with others, under these words: "we, the people of the United States of America," &c. I would ask gentlemen whether, with all their philanthropy, they would wish to see those people sitting by their sides deliberating in the councils of the nation? He presumed not. They go on farther and say, "We do not ask for the immediate emancipation of all, but we ask you to prepare the way for the oppressed to go free, that every yoke might be broken, thus keeping up the principle to do unto others as you would they should do unto you." The words need only be read to convince every man what is the tendency of their request. The gentleman farther says that 700,000 men are in bondage. I ask him how he would remedy this evil as he calls it? but I do not think it is any evil; would he have these people turned out in the United States to ravage, murder, and commit every species of crime? I believe it might have been happy for the United States if these people had never been introduced amongst us, but I do believe that they have been immensely benefited by coming amongst us. It was the British Government that transmitted them down to us when in a colonized state; but being here, and being the property of individuals, after obtaining our common liberty, and forming our Federal compact, property and safety were guaranteed to every individual and State in the confederation. How then can this House meddle with that part of our property? The General Government has no power over it. With respect to that part of the petition which said that these people were crowded into cellars and transported to Georgia, Mr. J. informed the House that the importation to that State by sea had been prohibited; none had come there by sea for many years, and offenders against that law were fined £100 sterling for each individual thus introduced. He hoped the petition would be treated with the contempt it merited, and thrown under the table.

Mr. RUTLEDGE rose to move that the question might be decided by *yeas* and *nays*. It was a practice he generally was against, and scarcely ever moved, but he considered this of importance sufficient to demand it. It was a question in which the interests of a great number of people in this country were involved. He had no doubt it would be lost by a very great majority, and he thought it would have a good effect to be recorded by how vast a majority it would be lost. He thought it would be some consolation to his constituents, when he returned home, to say how few of the House of Representatives were the supporters of this dangerous petition.

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Mr. WALN said if he had known that this petition would have caused so much alarm, he certainly should have desired the petitioners not to present it; but if they had still thought it necessary and been desirous of it, he should, as he then thought it within the power of legislation, and still thought so, have presented it. He thought it his duty, whenever any individual conceived himself injured by a law, to receive his petition, and he thought himself in no wise implicated in the manner, form, or subject of the petition, or answerable for it as containing his opinions. If it should be supposed that the assertions in the petition were unfounded, or bore too hard on a certain State, the only way to ascertain that fact was by referring to a committee, that the necessary inquiries might be reported. He again declared his disapprobation at this subject undergoing any discussion, nor would it have taken place had not the gentleman from South Carolina commenced it.

Mr. PLATT conceived that every thing which was brought before that House ought to be committed, unless there was manifest indecency in the language, or it should appear that the relief prayed for could not be granted consistently with the power of the House. In his opinion, except one of these two causes prevented, it unquestionably ought to be thus disposed of. As for indecency of expression, he could perceive none, either in the petition, or in the arguments of the gentlemen who advocated its reference. A third reason indeed might be mentioned, which was, that the persons whose names were signed did not give consent to the petition and therefore it was not their act. Neither of these reasons was proved to have existed.

Although, agreeably to the constitution, Congress could not make any laws to prevent the emigration or importation of any persons whom the several States should, at the adoption thereof think proper to admit, yet Congress could, and had made laws relative to fugitives from justice and previous to the year 1800. It was this law they prayed the amelioration of, and that the power of persons over their slaves might be limited, and that the law might be so amended as to prevent its violation. It was for that, and not for the general abolition of slavery they prayed, and surely they ought to be heard; their prayer ought to be committed for that purpose.

He disclaimed the least desire, but an abhorrence, of any principle that would rob persons of their property, but at the same time he was not such a dupe to *words* as to be of the opinion held

up by a gentleman, that because the French had used the words "reason" and "philosophy" he should discard them, and with them humanity.

Mr. THATCHER thought that to make use of the incapacity of these people to read or write, as an argument against committing their petition, must arise out of prejudice in his colleague against the general object, or he surely never would have resorted to such pitiful, and he might say, mean, virulent remarks. [Mr. T. was here called to order.] This was certainly a "new-fangled doctrine." But the reason why they could not write was because of the degraded state of their minds for want of education; many of them, perhaps, in their youth were in slavery.

The gentleman from Georgia had objected to the reference because the petition contained a system of facts which *he said* was not true? He (Mr. T.) believed they were true, and thus the dispute was in issue. How was this to be ascertained but by inquiry? If the State of Georgia should prove themselves innocent of that black stain, it would be to their honor. But no, said the gentlemen, "We will not have it examined into, because it will make us out to be as *black* as the petitioners themselves?"

Mr. EDMOND observed that the gentleman from South Carolina had called for the yeas and nays for a particular purpose, to wit, that it should be seen how few voted for this intermeddling with the property of the people in the Southern States. Mr. E. said he should vote for the reference, and as that opinion would be attached to his conduct, his reasons ought to accompany his vote. He should be as far from wishing to affect the property of the citizens as any gentleman, much less should he wish to affect the constitution. This appeared to him to be a very respectful petition; it mattered not whether the people were black or white; the petition only was to be regarded, and not the color of the persons, who, representing their grievances, asked for such a relief as the constitution could afford them. Surely then, every measure ought to be adopted to alleviate their sufferings. Was it consistent that the House, instead of a reasonable and patient attention, should come forward and treat this complaint with an inattention which passion only could dictate? Was contempt the way to recommend attachment to the Government? This ferment and scorn could not be necessary, but he was sure it was highly improper and inconsistent.

Mr. GALLATIN said that in his opinion there were many parts of the petition exceptionable, but not being so much acquainted with it as might be necessary to form a decision, he could not say whether or not it was in the power of the House to legislate on it. However, seeing this much in the situation with other petitions, he felt disposed, and should vote for its reference. If it should appear improper for Congress to legislate on it, then the committee would so report. He said he was not satisfied that there was no grievance to which the House could apply a remedy; he thought there was such a part. He remembered a petition from Delaware once on one of the complaints, that of kidnapping free negroes; therefore, he conceived it was truth, and could be no insult to the States of Delaware and Maryland to mention it. If so, surely an effectual remedy ought to be applied. In the former State he believed they had made the punishment death, and yet the evil was not prevented, if the complaints of the petitioners were true.

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Mr. WALN then withdrew his former motion, and moved "that so much of the petition as related to the slave trade carried on from any part of the United States to any foreign place or country; and so much of the said petition as respected fugitives from justice, or escaped from their masters, be referred to the committee appointed on the 12th day of December last on the subject of the slave trade."

Mr. RUTLEDGE appealed to the Chair to know whether the motion was in order.

Mr. SPEAKER said, perhaps, that was the only deliberative body in the world where a motion, having been made, seconded, and debated, could be withdrawn by either the mover or seconder. But it had been a practice in that House so to do, and there was no rule against it. The motion was therefore perfectly agreeable to order.

Mr. RUTLEDGE then moved an adjournment, which was carried—yeas 47, nays 35.

### FRIDAY, January 3.

BENJAMIN HUGER, from South Carolina, appeared, was qualified, and took his seat.

#### *Petition of Free Blacks.*

The House resumed the unfinished business of yesterday, on the resolution for referring certain parts of the petition of Absalom Jones and others, when

Mr. RUTLEDGE rose to explain his reasons for moving the adjournment yesterday, as not having arisen from a desire of protracting the debate, but because he conceived the Chair misunderstood him on the point of order. When he submitted the question of order to the Chair, it appeared from the decision to be the Speaker's opinion that the question was, whether a member had a right to withdraw a motion in that situation or not. He knew that right to exist, but he doubted of the competency of the House to refer parts of a petition, and not the whole. In his opinion it ought not to be referred, or, if so, the whole ought to be referred generally. He mentioned a petition which was last session presented from Northampton County, praying the repeal of the alien and sedition laws, but in their general zeal in the pursuance of those objects severally, other laws were found fault with, particularly those relating to measures of defence. These were thought to be improper for a reference; on which a motion was made to refer a part,

but it was then thought the petition could not be divided. He submitted to the gentleman from Pennsylvania a very easy mode of acquiring the object, which was by withdrawing the petition and advising the petitioners to present one conformable to the decision, and within the constitutional power of the House. Gentlemen were mistaken in saying that petitions of this kind came annually. The session before last the subject was referred to a committee, who made a suitable report upon it, and in order to prevent the continual debate, it was resolved to be a proper object of Judicial, and not of Legislative cognizance. This brought the matter to such an understanding that he hoped he would have heard no more of it. It appeared to have had the good effect of preventing any application during the sitting of last session.

The SPEAKER said the question of order, as now explained by the member from South Carolina, was not understood by the Chair. From all the examination and the fruits of inquiry which the Chair had since acquired, it appeared not to be unusual to refer parts of a subject, for parts of the PRESIDENT'S Speech had been referred; also, parts of petitions had frequently been referred; on which account the opinion of the Chair at present, unless an appeal should be made to the House, was, that the motion of the gentleman from Pennsylvania was perfectly in order.

Mr. WALN said it would have been very agreeable to him that the question should have been taken on the motion first made to the House; but, on hearing the warmth with which it was contested, and willing to remove the jealousy of several gentlemen in the House, he thought it best to alter the motion to their wishes.

It had been suggested that to withdraw the petition for its modification, would be an easy way to acquire the object. He thought it entirely unnecessary to withdraw it in this stage of business. Although he could have wished the words objected to had never been inserted, yet he was not prepared to say that the petitioners had no right to use them. It appeared that these people's sentiments accorded with those of the gentlemen who opposed the reference. They wished to obtain a removal of this great evil when proper: those gentlemen called it an evil which they could wish to get rid of, but they think it cannot be done. Mr. W. said he should not have objected to a resolution importing that it would be improper to legislate on the subject of slavery, but so far as relates to the bad traffic, and the practice of kidnapping, they ought to be examined by a committee. On these accounts he was not authorized, nor was he inclined to withdraw the petition.

He was in hopes the gentleman from South Carolina would not have desisted from his motion for calling the yeas and nays; that gentleman wished the House to show the world that this petition was so irritating and alarming as to merit universal contempt and abhorrence. He believed this gentleman was mistaken as to the small number he supposed would vote for its commitment, and therefore wished he would renew the motion on the question as modified.

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Mr. GOODE then observed that as a public discussion had taken place upon this subject—one from which he thought Congress precluded by the constitution, and one which materially affected the interest and perhaps the safety of a great portion of the United States, and particularly of his constituents, he thought it his duty not only to give his negative in the usual manner, but to call for the pointed disapprobation of the House, and proposed to amend the resolution by adding the following words:

"And that the parts of the said petition which invite Congress to legislate upon subjects from which the General Government is precluded by the constitution, have a tendency to create disquiet and jealousy, and ought therefore to receive the pointed disapprobation of this House."

Mr. THATCHER said it was the first time that he had ever known any petition or part of a petition receive the "pointed disapprobation of the House" by a resolution, even though the object of it was not within the power of the House. Several petitions had been received upon which the House had no power. He referred to the petition of John Churchman, in December 1791, praying the patronage of Government to facilitate his discovery of the longitude, by enabling him to undertake a voyage to Baffin's Bay. It was reported that great inconvenience operated to prevent the grant prayed for, and no money was allowed, yet no member moved a censure upon the petitioner. Was it a desirable object to do away a great evil? It was professed to be the wish of several gentlemen to eradicate it. No gentleman in the House but appeared desirous of embracing it with all his heart. These people only wished the evil destroyed, but did not point out the form. He was willing, for the sake of argument, to admit that slavery did exist and was sanctioned by the laws and constitution of the United States; he did not believe the fact, but as some other gentlemen did, he would admit it for the present. Surely it would be desirable that this great evil should be destroyed, if it could be done without injury, nay, with advantage, to the possessors. Did the petition go any farther than this? It did not. The second person in the Government of the United States had devised a means to procure this object, as also had a certain learned professor. If it was therefore the desire, as avowed, of those gentlemen, and an equitable means had been devised to acquire it, would the reference of a petition which made that request be improper, or would it be impolitic in gentlemen to examine these plans, and if eligible bring about their execution? Certainly not. Even if a certain sum of money was wanting, he did not believe the House would refuse to appropriate it. Who would withhold a few dollars from his purse to facilitate it? Then, while such are the propositions, a petition in behalf of its accomplishment ought to be heard; if it be not, it must fix a national indignity and stigma which ages of good actions could never wipe away.

Mr. DANA was not of the opinion of a number of gentlemen, that the House ought to express its indignation against these petitions. The indignation of that House ought to be limited to certain

objects; it might be expressed against an offending nation, but he much doubted whether it became it to express that high sensation against any individuals. He thought no circumstance could occur which called for such condescension, and therefore he could not approve of words so strongly expressed upon an occasion comparatively so trivial. If the gentleman from Virginia would so convey his ideas as to express the impropriety of those subjects for the consideration of this House, he was willing to agree with him.

Mr. RUTLEDGE thought it a little extraordinary that when gentlemen from some parts of the Union were positively assured that very serious, nay, dreadful effects, must be the inevitable consequence of their discussion on this subject, they still would persist. He used strong words, he said, because no others would be appropriate. Gentlemen recommended the subject to be calmly argued. Would gentlemen feel calm if measures were taken to destroy most of their property? Would calmness be consistent if entering wedges were prepared to ruin the property of whole estates? If ever it was justifiable to be warm on any subject in the House, it surely was on an occasion like the present, when imminent danger was in view. Yes, we deem this as an entering wedge to an inevitable loss of our property, if persisted in. It appeared by the gentleman's arguments that he had just been reading the opinions of his brother philosopher, Brissot.

Three emissaries from St. Domingo appeared in the hall of the Convention, demanding the emancipation of their species from slavery. The Convention were told it would operate as an entering wedge that would go to the destruction of property, and the loss of one of the finest islands in the world; that it would be murderous in the extreme; that it would open scenes which had never been practised since the destruction of Carthage; that a whole rich country would be buried in blood; that thousands would instantly be reduced to abject penury; that the first towns in that fine island would be reduced to a heap of ashes. But those gentlemen said no, it cannot be, all our desires originate in philanthropy—we wish to do good! But, sir, we have lived to see these dreadful scenes. These horrid effects have succeeded what was conceived once to be trifling. Most important consequences may be the result, although gentlemen little apprehend it. But we know the situation of things there, although they do not, and knowing we deprecate it. There have been emissaries amongst us in the Southern States; they have begun their war upon us; an actual organization has commenced; we have had them meeting in their club rooms, and debating on that subject, and determinations have been made. It might be wrong in me to mention these things, because many of those people can read and write, and will be informed of what I am now saying, which they think I did not know, but knowing, I am determined to make use of.

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Sir, I do believe that persons have been sent from France to feel the pulse of this country, to know whether these are the proper engines to make use of: these people have been talked to; they have been tampered with, and this is going on. They now will see that the argument has been agitated in the Legislature; that the subject of emancipation has been discussed. Is not this extremely wrong, when gentlemen are told how much it puts our property at hazard. Although these people are unable to do any harm, yet the work will be done by gentlemen in this House, *they* must be answerable for the mischief.

Before I had the honor of a seat in this House, one question which was agitated by the people was, how do the General Legislature regard this species of property? I said, our brethren in the Northern States are willing to leave this business entirely to us who possess it—they will not intermeddle. I did hope that they never would take the lead in any arguments of this dangerous tendency. But, as gentlemen have gone into this business, I find I am compelled to use arguments which otherwise ought not to be mentioned.

I recollect that gentlemen in France used arguments like the gentleman from Massachusetts: "We can indemnify these proprietors." But how did they do it, or how can it be done?—Not at all. Farther, we were told these things would take place, we need not be alarmed; it was inevitable; that it was reasonable and unavoidable. Sir, it never will take place. There is one alternative which will save us from it, but that alternative I deprecate very much; that is, that we are able to take care of ourselves, and if driven to it, we will take care of ourselves.

Mr. JONES had hoped that the decision of Congress when sitting at New York would have put a final stop to any future applications, and the councils of the United States would have been troubled no farther with them. It was justly and wisely proved that it was a difficulty unfit for Congress to attempt, on account of the extremely different local circumstances and species of property possessed by the Northern and Southern members, who were all met in one convention. However, he must do justice to the candor of some gentlemen from the North, who had vindicated their right to this property. Mr. J. did not think there was any more probability of discovering an eligible and just mode of acquiring the object of *emancipation*, than there was in the case referred by the gentleman to Mr. Churchman's discovery of *longitude*. All researches into these attempts were illusory, and both alike impracticable at this time, if ever they would be. However, he was certain that the honorable gentleman's manner of treating the subject would give rise to a just jealousy in those parts of the United States whose property consisted only in slaves. As to the State he represented, as he before said, a very heavy penalty was the fine on each slave imported, and killing, maiming, or ill-treating them was punished severely by the whites. He could not think but the arguments of some gentlemen must originate from improper motives.

Mr. EDMOND could not conceive any danger from committing this petition, whatever alarms some gentlemen had apprehended. But as gentlemen apprehended so much danger from committing certain parts of the petition, he would be willing to quiet these alarms, and do every thing reasonable by expressing an idea that Congress would not legislate upon what belonged not to

them. The amendment at first proposed, he professed himself much opposed to, upon the ground that the House were about to express a pointed disapprobation towards the petitioners, which he conceived wrong, because no censure could be due where a petition was respectfully addressed. But as now modified he had no objection to adopt the amendment; not that he conceived it important, but because it tended to quiet the minds of some gentlemen in the House.

Mr. WALN again said, that it was not his intention to advocate the emancipation of slaves, but only to ameliorate their state. He therefore would cheerfully consent to the amendment as amended.

Consent being given by the mover to incorporate the amendment with the original resolution, it was now all before the House in the form of one resolution.

Mr. THATCHER said, as an abstract proposition, he should have no objection; he thought the House ought to give no countenance to any thing that it could not legislate on by the constitution; but as he did not believe the petition contained any such proposition, he must adhere to his former sentiments, and could not consent to the incorporation of the words. As amended, he disliked it much less than before, but he did not like it as connected with the first motion.

Mr. J. BROWN asked whether it was in order for a gentleman to speak five or six times.

Mr. THATCHER said he had spoken but once on this question. The gentleman from Rhode Island need not be afraid, for he was not now going to say much about slavery, which was the nearest to his heart. Mr. T. was fully of the opinion that the House had a right to take up the subject, and give it a full, free, and deliberate discussion, but this did not appear to be the general opinion. As he was opposed to the motion, as amended, he was willing his name should appear against it, even though no other gentleman should think fit to vote with him.

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Mr. GALLATIN conceived that there certainly were parts of the petition over which that House had no power, for though the petitioners did not pray for emancipation to be completed immediately, yet they anticipated that it would some time be done, and their prayer included a wish that the House would take a preparatory step. As to the amendment, although he did not like the wording of it altogether, he had no objection to the principle, and therefore should vote for it; for he thought it right to say that it was improper for the House to legislate on the subject. What was not specifically acknowledged by the constitution, in his opinion, carried with it a doubt upon which the Legislature ought not to enter.

Mr. THATCHER called for a division of the question.

Mr. NICHOLAS, on this, expressed some embarrassment as to giving his vote, on which he moved to strike out the latter part. The same appeared to pervade the minds of several gentlemen.

Mr. WALN, therefore, to relieve the House from the situation, withdrew his acquiescence to the amendment, so as to leave the questions distinct. The yeas and nays had been several times moved during the embarrassed state of the House, but were only taken once, to wit, on the amendment to the proposition:

"And that the parts of the said petition which invite Congress to legislate upon subjects from which the General Government is precluded by the constitution, have a tendency to create disquiet and jealousy, and ought therefore to receive no encouragement or countenance from this House."

The question was taken, that the House do agree to the same, and resolved in the affirmative—yeas 85, nay 1, as follows:

YEAS.—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, John Bird, Phanael Bishop, Jonathan Brace, John Brown, Robert Brown, Christopher G. Champlin, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Samuel W. Dana, John Davenport, Franklin Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, William Edmond, Joseph Eggleston, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glenn, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Joseph Heister, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, James H. Imlay, George Jackson, James Jones, Aaron Kitchell, Henry Lee, Nathaniel Macon, John Marshall, Lewis R. Morris, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Randolph, John Read, John Rutledge, junior, Samuel Sewall, William Shepard, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Chew Thomas, Richard Thomas, John Thompson, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

NAY.—George Thatcher.

And then the main question, to agree to the said motion, as amended, being taken, it was resolved in the affirmative.

## TUESDAY, January 7.

JAMES SHEAFE, of New Hampshire, appeared, produced his credentials, was qualified, and took his seat in the House.

FRIDAY, February 7.

*Case of Jonathan Robbins.*

The following Message and documents were received from the PRESIDENT OF THE UNITED STATES, which were read, and ordered to lie on the table:

*Gentlemen of the House of Representatives:*

In consequence of your request to me, conveyed in your resolution of the fourth of this month, I directed the Secretary of State to lay before me copies of the papers intended. These copies, together with his report, I now transmit to the House of Representatives, for the consideration of the members.

JOHN ADAMS.

UNITED STATES, *Feb. 7, 1800.*

DEPARTMENT OF STATE,  
*February 6, 1800.*

The Secretary of State has prepared, as directed, and now respectfully submits to the President of the United States, copies of the papers which probably were contemplated by the House of Representatives, in their resolve of the 4th instant; although no requisition, as the resolve supposes, has ever been received, nor any communication made to the Judge of the District Court of South Carolina, concerning any man by the name of Jonathan Robbins. But by the proceedings before that Judge, as they have been published, it appears that a seaman named Thomas Nash, the subject of the British Minister's requisition, did assume the name of Jonathan Robbins, and make oath "that he was a native of the State of Connecticut, and born in Danbury, in that State." The Secretary, therefore, besides the copy of the requisition, and the copies of his letter to the Judge of the District Court of South Carolina, and of the Judge's answer, has prepared, and herewith encloses, copies of the certificates of the selectmen and town clerk of Danbury, and extracts of letters from Admiral Sir Hyde Parker, satisfactorily proving that the Thomas Nash, calling himself Jonathan Robbins, who, on the requisition of the British Minister, was delivered by the Judge aforesaid, with the assent of the President of the United States, was not an American citizen, but a native Irishman, who to his other crimes added *perjury*, in the hope, thereby, to escape the punishment due to *piracy* and *murder*. The original certificates of the selectmen and townclerk of Danbury are in the Secretary's possession; and he has compared the extract of Admiral Parker's letter to Mr. Liston with the original, and the extract of the Admiral's letter to the British Consul at Charleston, with the passage as recited in the Consul's original letter to Mr. Liston.

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All which is respectfully submitted.

TIMOTHY PICKERING.

Copy of a note from Robert Liston, Esq., Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty, to Timothy Pickering, Secretary of State of the United States.

PHILADELPHIA, *May 23, 1799.*

R. Liston presents his respects to Col. Pickering, Secretary of State. A seaman of the name of Thomas Nash having been committed to jail in Charleston, South Carolina, at the instance of His Majesty's Consul there, on suspicion of his having been an accomplice in the piracy and murder committed on board His Majesty's ship *Hermione*, and information of the circumstance having been transmitted to Vice Admiral Sir Hyde Parker, a cutter was despatched to Charleston, with an officer on board to whom the man was well known, in order that his person might be identified, and that he should be carried to the West Indies for trial. But on the application of the Consul for the restoration of Nash, in conformity to the treaty of 1794, Judge Bee and the Federal Attorney were of opinion that he could not with propriety be delivered up, without a previous requisition on my part made to the Executive Government of the United States. May I therefore request, sir, that you will be pleased to lay this matter before the President, and procure his orders that the said Thomas Nash be delivered up to justice.

**Letter from the Secretary of State to Judge Bee.**

DEPARTMENT OF STATE,  
*Philadelphia, June 3, 1799.*

SIR: Mr. Liston, the Minister of His Britannic Majesty has requested, that Thomas Nash, who was a seaman on board the British frigate *Hermione*, and who, he is informed, is now a prisoner in the jail of Charleston, should be delivered up. I have stated the matter to the President of the United States. He considers an offence committed on board a public ship of war, on the high seas, to have been committed within the jurisdiction of the nation to whom the ship belongs. Nash is charged, it



is understood, with *piracy* and *murder*, committed by him on board the above mentioned British frigate, on the high seas, and consequently within the jurisdiction of His Britannic Majesty; and therefore, by the 27th article of the Treaty of Amity with Great Britain, Nash ought to be delivered up, as requested by the British Minister, provided such evidence of his criminality be produced as, by the laws of the United States or of South Carolina, would justify his apprehension and commitment for trial, if the offence had been committed within the jurisdiction of the United States. The President has in consequence thereof authorized me to communicate to you "his advice and request" that Thomas Nash may be delivered up to the Consul or other agent of Great Britain, who shall appear to receive him. I have the honor to be, &c.

TIMOTHY PICKERING.

Hon. THOMAS BEE,

*Judge of the District of South Carolina.*

Letter from Thomas Bee, Esq., to the Secretary of State, dated Charleston, South Carolina, July 1st, 1799.

In compliance with the request of the President of the United States as stated in your favor of the 3d. ult., I gave notice to the British Consul that at the sitting of the district court on this day I should order Thomas Nash, the prisoner charged with having committed murder and piracy on board the British frigate *Hermione*, on such strong evidence of his criminality as justified his apprehension and commitment for trial, to be brought before me on habeas corpus, in order to his being delivered over agreeably to the 27th article of the Treaty of Amity with Great Britain. The Consul attended in court and requested that the prisoner should remain in jail until he had a convenient opportunity of sending him away. I have therefore directed that he remain in prison, until the Consul shall find it convenient to remove him. I have the honor to be, with great respect, your most obedient servant,

THOMAS BEE,  
*District Judge of South Carolina.*  
Hon. T. PICKERING, *Secretary of State.*

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DANBURY, *Sept. 16, 1799.*

We, the subscribers, selectmen of the town of Danbury, in the State of Connecticut, certify that we have always been the inhabitants of said town, and are from forty-five to fifty-seven years of age, and have never known an inhabitant of this town by the name of Jonathan or Nathan Robbins, and that there has not been, nor now is any family known by the name of Robbins within the limits of said town.

Certified, per

ELI MYGOT.  
EBEN BENEDICT.  
JUSTUS BARNUM.  
BEN. HICHCOK.

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DANBURY, *Sept 10, 1799.*

The subscriber, late town clerk for the town of Danbury, in the State of Connecticut, certifies that he kept the town records twenty-five years, viz: from the year 1771 until the year 1796; that he is now fifty-six years of age, and that he never knew any person by the name of Robbins, born or residing in the said town of Danbury, during that term of twenty-five years, before or since.

MAJOR TAYLOR.

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Extract of a letter from Admiral Sir Hyde Parker, to Robert Liston, Esq., Envoy Extraordinary and Minister Plenipotentiary of his Britannic Majesty to the United States, dated

PORT ROYAL HARBOR,  
*"Jamaica, Sept. 9, 1799.*

"I have had the honor of receiving duplicates of your Excellency's letters, numbered 10, 11, 12, and, in answer thereto, acquaint you that in consequence of Nash, one of the ringleaders in the mutiny, murders, &c., on board the *Hermione*, being delivered up by the United States to me, he has been tried at a court

martial, and sentenced to suffer death, and afterwards hung in chains, which sentence has been put into execution. He acknowledged himself to be an Irishman."

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Extract of a letter from Benjamin Moodie, Esq., Consul of his Britannic Majesty at Charleston, South Carolina, to Robert Liston, Esq., Envoy of his said Majesty to the United States, dated

NOVEMBER 19, 1799.

In consequence of many obstacles I had to encounter in obtaining the delivery of Thomas Nash, late of His Majesty's ship *Hermione*, and of the numerous publications to the northward and in this place, I wrote to Admiral Sir Hyde Parker, requesting he would be good enough to send me minutes of the court martial, to which he answered under date 13th September: "I am to acquaint you that Nash has been executed agreeably to a court martial, and that he confessed himself to be an Irishman; and it further appears, by the *Hermione's* books, that he was born at Waterford; on the 21st December, 1792, entered a volunteer on board the *Dover*, received £3 bounty money, and was removed to the *Hermione*, 28th of January, 1793. And with respect to transmitting the minutes of his trial, that is not in my power, but rests with the Lords of the Admiralty only."

### **MONDAY, February 10.**

#### ***Amy Dardin's Claim for the Horse Romulus.***

The petition of Amy Dardin was called up, and after some opposition, on account of a former reference and decision, was referred to the Committee of Claims.

### **THURSDAY, February 13.**

#### ***Military Interference in Elections.***

Mr. LEIB called up for consideration the following resolution, which he laid on the table on the 4th instant, viz:

*Resolved*, That a committee be appointed to *bring in a bill making* provision for the removal of the regular troops of the United States which may be stationed where an election is held, and that such removal shall take place at least two days previous to such election, and to a distance not less than two miles.

Mr. OTIS moved to amend the resolution by striking out the words in *italic*, in the second line, and inserting "inquire into the expediency of."

A long debate ensued on this motion, in which it was conceded, on all sides, that the resolution was too definite, and left nothing in the power of the committee to act on, except merely bringing in a bill conformable to it. If excesses had been committed by the military at elections, and they were guilty of improper interference, it seemed to be the wish of every member that some provision should be made to guard against them in future; but they were unwilling to say what that provision should be, until an inquiry were made into the facts stated. The removal of the troops to the distance mentioned, was also particularly objected to, as it might leave fortifications, arsenals, and military stores, for two or three days, entirely unprotected.

Mr. LEIB at length withdrew his original proposition, and submitted the following, which was adopted without objection, viz:

*"Resolved*, That a committee be appointed to prepare and report a bill, containing such legislative provisions as may be judged expedient, either for removing any military force of the United States, from any place of holding elections, or for preventing their interference in such elections."

Mr. MARSHALL, Mr. LEIB and Mr. OTIS, were appointed the committee.

#### ***Amendment to the Constitution.***

Mr. LIVINGSTON laid the following joint resolution on the table:

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled*, 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 said Legislatures, shall be valid as a part of the said constitution, viz:

No Judge of any Court of the United States shall, during his continuance in office, or within six months after he may have resigned the same, be appointed to any other than a judiciary office, under the United States.

**MONDAY, February 17.**

***Case of Jonathan Robbins.***

Mr. RUTLEDGE said, he had expected that some order would have been taken on the Message of the President, before this time, by the gentleman who called for it; but as he had been disappointed, he would now give notice to the honorable member from New York that he would call for some order upon the Message to-morrow.

Mr. LIVINGSTON said, the gentleman had momentarily anticipated him; he meant to have moved for a reference to a Committee of the whole House this morning, with an intention to introduce certain resolutions, and he would now make that motion.

The question on commitment was put and carried—yeas 50, nays 43; and was made the order of the day for Friday.

Mr. BAYARD then laid the following resolution on the table, which was read and referred to the above committee, viz:

*Resolved*, That the conduct of the Executive Government of the United States, in relation to the requisition made by his Britannic Majesty's Minister, of the delivery up to justice of Thomas Nash, otherwise called Jonathan Robbins, upon the charge of murder, committed on board of the Hermione British frigate, which said Nash had sought an asylum within the United States, was conformable to the duty of the Government, and to the obligations of good faith stipulated in the 27th article of the Treaty of Amity, Commerce, and Navigation, made with Great Britain.

**THURSDAY, February 20.**

***Case of Jonathan Robbins.***

Mr. LIVINGSTON proposed the following resolutions:

"*Resolved*, That it appears to this House that a person, calling himself Jonathan Robbins, and claiming to be a citizen of the United States, impressed on board a British ship-of-war, was committed for trial in one of the courts of the United States for the alleged crime of piracy and murder, committed on the high seas, on board the British frigate Hermione: That a requisition being, subsequent to such commitment, made by the British Minister to the Executive of the United States, for the delivery of the said person (under the name of Thomas Nash) as a fugitive, under the 27th article of the Treaty with Great Britain, the President of the United States did, by a letter written from the Department of State to the Judge who committed the said person for trial, officially declare his opinion to the said Judge that he 'considered an offence committed on board a public ship of war on the high seas to have been committed within the jurisdiction of the nation to whom the ship belongs;' and, in consequence of such opinion and instruction, did advise and request the said Judge to deliver up the person so claimed to the agent of Great Britain, who should appear to receive him, provided only that the stipulated evidence of his criminality should be produced. That in compliance with such advice and request of the President of the United States, the said person so committed for trial was, by the Judge of the District of South Carolina, without any presentment or trial by jury, or any investigation of his claim to be a citizen of the United States, delivered up to an officer of his Britannic Majesty, and afterwards tried by a court martial, and executed on a charge of mutiny and murder.

"*Resolved*, That inasmuch as the Constitution of the United States declares that the Judiciary Power shall extend to all questions arising under the Constitution, laws, and treaties, of the United States, and to all cases of admiralty and maritime jurisdiction: and, also, that the trial of all crimes (except in cases of impeachment) shall be by jury; and that such trial shall be held in the State where such crime shall have been committed; but when not committed within any State, then at such place or places as Congress may by law have directed; and inasmuch as it is directed by law that the offence of murder committed on the high seas shall be deemed to be piracy and murder, and that 'all crimes committed on the high seas, or in any place out of the jurisdiction of any particular State, shall be tried in the district where the offender is apprehended, or into which he may be first brought:' therefore the several questions, whether the alleged crime of piracy and murder was committed within the exclusive jurisdiction of Great Britain; whether it comes within the purview of the said twenty-seventh article; and whether a person stating that he was an American citizen, and had committed the act of which he was accused in attempting to regain his liberty from illegal imprisonment, ought to be delivered up, without any investigation of his claims to citizenship, or inquiry into the facts alleged in his defence, are all matters exclusively of judicial inquiry as arising from treaties, laws, constitutional provisions, and cases of admiralty and maritime jurisdiction.

"*Resolved*, That the decision of those questions by the President of the United States, against the jurisdiction of the courts of the United States, in a case where

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those courts had already assumed and exercised jurisdiction: and his advice and request to the Judge of the district court that the person thus charged should be delivered up, provided only such evidence of his criminality should be produced as would justify his apprehension and commitment for trial, are a dangerous interference of the Executive with Judicial decisions; and that the compliance with such advice and request on the part of the Judge of the District Court of South Carolina, is a sacrifice of the Constitutional independence of the Judicial power, and exposes the administration thereof to suspicion and reproach."

The question of reference to the Committee of the Whole was taken and carried—yeas 55.

The House then adjourned.

## FRIDAY, February 21.

### *Eulogium on the Character of Washington.*

A message was received from the Senate informing the House that the Senate had this day come to the following resolution, viz:

"*Resolved*, That the Senate will to-morrow, at half past 12 o'clock, meet in the Senate Chamber, and from thence walk in procession to the church in Race street, to hear the eulogium to be pronounced on the character of General Washington."

Ordered to lie on the table.

The SPEAKER said he was requested, by a member of the Catholic church, to inform the House that seats were provided for the accommodation of such members as would please to attend to hear the delivery of the oration to-morrow.

Mr. RUTLEDGE said, before the receipt of the message from the Senate, he had intended to move that when the House adjourn they do adjourn till Monday; but the Senate having informed the House that they intended to walk in procession, he conceived this House ought to come to a similar resolution, and moved the following:

"*Resolved*, That the House of Representatives will meet to-morrow, at half-past 12 o'clock, at their Chamber, and from thence walk in procession to the church in Race street, to hear the eulogium there to be pronounced on the character of General Washington."

It was objected to this resolution, that it had not been contemplated this House would walk in procession, no arrangement having been made for that purpose; and that as it might be the wish of several members to attend the oration at the Catholic Church in preference to the one in Race street, it ought to be left to their own option.

The question on the resolution was put and negatived—yeas 40, nays 43.

## MONDAY, February 24.

### *Western Lands.*

The House resolved itself into a Committee of the Whole on the report made the 18th instant, by the committee appointed to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States north-west of the Ohio; and, after some time spent therein, the committee rose and reported several resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

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*Resolved*, That all the townships directed to be sold, either in quarter townships or in tracts of one mile square, by the act "providing for the sale of the lands of the United States, in the Territory north-west of the river Ohio, and above the mouth of Kentucky River," shall be subdivided into half sections, containing, as nearly as may be, three hundred and twenty acres each: the additional expense of surveying to be paid by the purchaser, at the rate of three dollars per tract.

*Resolved*, That all the said lands shall be offered for sale at public sale, in tracts of three hundred and twenty acres as above directed: *Provided*, That the same shall not be sold under the price of two dollars per acre, and that the sale shall be at the following places, to wit:

All the lands contained in the seven first ranges of townships, and north of the same, shall be offered for sale at Pittsburg.

All the lands contained in the eight next ranges of townships, shall be offered for sale at Marietta.

All the lands lying west of the fifteen first ranges of townships, and east of the Sciota River, shall be offered for sale at Chillicothe.

All the lands lying below the Great Miami shall be offered for sale at Cincinnati.

*Resolved*, That one or more land offices shall be opened in the North-western Territory, and that every person be permitted to locate and purchase, at the rate of two dollars per acre, one or more of the half sections that shall not have been sold at public sale.

*Resolved*, That the payments for lands purchased either at public or private sale, may be made as

heretofore in public securities, and shall be made in the following manner, and under the following conditions, viz:

1st. At the time of purchase, every purchaser shall deposit one-twentieth part of the amount of purchase-money; to be forfeited, if, within three months, one-fourth of the purchase-money, including the said twentieth part, is not paid.

2d. One-fourth of the purchase-money to be paid as aforesaid, within three months, and the other three-fourths in three equal payments, within two, three, and four years, respectively, after the date of the purchase.

3d. No interest to be charged in case of punctual payment; but interest at the rate of six per cent. a year, to be charged from the date of purchase, on any part of the purchase-money which shall not have been paid at the time, respectively, when the same shall have become due.

4th. A discount at the rate of eight per cent. a year, to be allowed on any of the three last payments, which shall be paid before the same shall have become due.

5th. If any tract shall not be completely paid for within one year after the date of the last payment, the tract to be sold in such manner as shall be provided by law; and after paying the balance due to the United States, including interest, the surplus, if any, to be returned to the original purchaser.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. HARRISON, Mr. BRACE, Mr. GORDON, Mr. DAVIS, Mr. LYMAN, and Mr. GALLATIN, do prepare and bring in the same.

## **TUESDAY, February 25.**

### ***Case of Jonathan Robbins.***

The House having resolved itself into a Committee of the Whole on the Message of the PRESIDENT respecting Jonathan Robbins, a short debate took place whether the committee should take up the business of the resolution first proposed by Mr. BAYARD, or those subsequently offered by Mr. LIVINGSTON. Mr. BAYARD seemed inclined to withdraw his motion, but the committee seeming of opinion that both resolutions were within their jurisdiction, and that they might proceed on either, the question was taken whether the committee would proceed on the resolutions of Mr. LIVINGSTON and carried in the affirmative.<sup>[49]</sup> MESSRS. BAYARD, RUTLEDGE, OTIS, &C., voting in favor of the question, and MESSRS. LIVINGSTON, NICHOLAS, &C., against it.

Mr. LIVINGSTON then entered upon an argument in support of the resolutions which he had some days before submitted to the House, and which now were taken up. Soon after he began the discussion, he was proceeding to read a deposition of Jonathan Robbins, and certificates accompanying the same, to prove himself a citizen of the United States, in which the deponent swore, before the court of South Carolina, that he was born at Danbury in the State of Connecticut, and that he was impressed from on board the American brig Betsey, by the crew of the British frigate, about two years before, where he was detained contrary to his will until the mutiny occurred.

Mr. BAYARD opposed the reference to a fact so incompetently authenticated as the report of a case upon newspaper testimony, especially when, if it had been the desire of the gentleman to have introduced it as evidence, it was extremely easy to have procured the record of the court before he proceeded on his allegations. If such evidence as this was to be admitted, other and perhaps more important evidence might next be introduced to impose on the committee. Besides, it certainly must be looked upon as *ex parte* evidence, which it was impossible to repel. Mr. B. submitted to the Chair whether it would be in order to admit any fresh evidence to support the resolutions, when all the documents which had been asked for, and which had come to the knowledge of the Executive, had been submitted to the House.

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Mr. GALLATIN, on the question of order, contended for the admission: this document, he said, was referred to as authentic, in his letter. He says, "That, by the proceedings before that judge, (Bee,) as they have been published, it appears that a seaman named Thomas Nash did assume the name of Jonathan Robbins, and make oath that he was a native of the State of Connecticut," &c. Certainly it cannot be deemed improper to refer to the identical document there mentioned. If it was proper for the Secretary of State to make the allusion, the House could take it up under the same idea. He did not think it was introduced as evidence before the committee.

Mr. DANA said he was very sorry the gentleman had been interrupted; he could not think of admitting it as evidence, but the gentleman might read it as part of his speech, which perhaps might otherwise have a chasm in it.

Mr. LIVINGSTON said he did wish to read this paper as part of his speech; and he believed it a very material part, because it was a justification of a point which he wished to establish; he wished to show the committee that Jonathan Robbins claimed to be an American citizen, and that he said he was impressed. This he swore to in court; and that he did so, he hoped would be admitted. He said he only introduced it with this view. Surely he could not be so far mistaken in his law knowledge as to be thought to have said that the culprit could be evidence in his own behalf. If *he did say* he was a citizen, then the matter, upon examination, must appear more serious than gentlemen would be willing to think.

Mr. BAYARD had no doubt but it was the gentleman's intention to impress the force of the facts contained in that paper upon the minds of that committee; and to suppose it would have no

impression would be absurd. It would afterwards be said that this man was admitted to be an impressed American citizen, and that he was praiseworthy in committing what would then be called the homicide. The decision of the committee would be much affected, he said, by the kind of evidence which was adduced. If this was admitted, it would be impossible to ascertain the extent of the principle. Other depositions may be produced—indeed, he had no doubt but the gentleman could get proof to any point which he might think it material to ascertain. In saying this, he did not mean to insinuate that any improper steps would be taken by that gentleman, but there were volunteers enough to be found who would step forward in order to answer a party purpose, and make oath of any thing.

Mr. LIVINGSTON supposed he should increase the astonishment of gentlemen still more when he declared that he did not believe a word of the affidavit; but he believed Nash was an Irishman, and that he entered on board and committed all the crimes charged to him. It was clear that this affidavit could not be evidence. In admitting this, he believed he did not surrender one point of the resolutions; he should prove that all which he wished to ascertain was that such *claim* was made to the court.

Mr. BAYARD asked where could be the necessity of proving a fact which every member of the House was willing to admit. All acknowledged that Nash *claimed* to be an American citizen; but perhaps the wish of the gentleman was to have additional light on this subject, on which account he introduced the deposition. But, Mr. B. said, he was willing only to proceed upon what the House knew from the documents before them, and not take a step on precarious ground. It must be well known what the gentleman wanted to get this admission for; he no doubt wished to prove that, upon his own mere suggestion, he was an American citizen, and that he was impressed—he was entitled to a trial by jury in this country, and on that account the act of sending him away was unconstitutional. This would lead to an extensive field of argument. If there was any necessity for more evidence, or to call witnesses to the bar of the House, let proper measures be taken to procure them, but let them not come forward in any other way.

Mr. DANA read the resolution first offered to the House for a call for papers relative to Jonathan Robbins; this was answered, he said, by the Secretary of State, that no requisition or proceedings had been had in that name; but he presumed allusion was made to the case of Thomas Nash, concerning whom proceedings were had in the District Court of South Carolina; in that way, and that only, the Secretary made reference to the printed report. In this blundering way, Mr. D. said, the business was begun. [He was called to order.] In addition to this, he said, the proceedings of gentlemen were erroneous; but, notwithstanding that, Mr. D. said, he would gratify the feelings of the gentleman, as far as his vote would go, for him to read it, but only as part of his speech. No doubt he wished to support some point of his argument by it, and in that view he had a right to read it; but that it was evidence, he denied.

The CHAIRMAN having stated his reasons, concluded with an opinion that the member could not proceed to read the affidavit.

Mr. GALLATIN appealed to the committee from the decision of the Chair; when there appeared 39 in favor of the decision, and 48 against it.

At this point the committee rose, and had leave to sit again.

## WEDNESDAY, February 26.

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### *Case of Jonathan Robbins.*

Mr. DAVIS moved that the Committee of the whole House be discharged from the further consideration of the resolutions proposed by Mr. LIVINGSTON and Mr. BAYARD, on the affair of Jonathan Robbins. The small progress, Mr. D. said, which was made yesterday in the discussion, fully convinced his mind that nothing at all would be done in it; besides, were he convinced that the subject would be impartially conducted, he did not know of any possible good that could arise from the adoption of the resolutions. If there had been any error in the proceedings of the Executive, he conceived that error would correct itself. If there was an improper interference, he was certain it could not have arisen from improper motives, and therefore he sincerely hoped he should not be called upon to give an opinion on the subject. Nor, on the other hand, was he at all prepared to compliment the Executive, or any officer of the Government, for having done what he thought to be right. If he had done right, it was his duty. He did not think it of any great importance; but, most assuredly, if the argument was extended, it would be made a case of much importance. It was better, however, to let the case of Jonathan Robbins sleep in the Committee of the Whole, where it then was. He was not prepared to criminate, nor was he prepared to applaud.

Mr. RANDOLPH said, that no gentleman had a higher respect for the motives of the gentleman from Kentucky than himself; but, however disagreeable it might be, he must differ from him in his present opinion. He really hoped the gentleman would reconsider the motion he had made, and not stop the gentleman from New York in this early stage of the business. If there were any defects in the papers, and their authenticity was questionable, it must not arise from the gentleman from New York, but from those whose duty it was to furnish all the facts relative to the subject. He was obliged to read a printed paper, because those with whom the authoritative copies are, have not thought proper to furnish the House with them. He hoped, if a stop was put to the proceedings, it would not be to discharge the committee, but to call for authentic copies of all the papers within the reach of the Government. It must be acknowledged that the man whose case the House are considering did put in his claims to citizenship, and to the protection of his

country on that account. If that acknowledgment is refused on account of the paper which has been produced being a newspaper, reference must be made to what is within the reach of the House—more authentic papers.

Mr. H. LEE considered the motion would have the complete effect any gentleman could wish whose desire it was to reprobate the conduct of the Administration of our Government. How could the motion be necessary—how be useful? If they were to ask more evidence, said Mr. L., I would vote for it to be produced; they have brought the subject before the House—let us see it in the purest colors which it can be placed in. We are ready to meet them here; we are willing they should have every evidence that can be obtained to elucidate their charge; but let not the Executive be hung up to reproach without a trial; let not suspicion be encouraged, which must have all the effects of a substantiated charge. I wish them to go on with the discussion, that all the truth may be disclosed, and every fair light be given which the case will bear; for now the people of the United States have their eyes fixed upon our proceedings on this important question.

Mr. MACON was in favor of the motion. If the Committee of the Whole was not to be discharged, he hoped at least the subject would be postponed till the public business of the session was over; there were many public bills, he said, that must be passed. The House was called upon to judge with almost no testimony, and yet upon this uncertain ground, perhaps a whole week might be spent of the most precious time of the House; for if the House was to rise at the time proposed, the loss of this time would certainly be felt.

As to the impression it would leave on the minds of the people, they had as many facts to judge from as the House, and they certainly would form an opinion, whether the House did so, or not. Gentlemen were very much mistaken, he said, if they undertook to lead the people; they would think, and they would show what their judgment was when a proper time came for that purpose. The time the people would take to show their approbation or disapprobation of the measures of the Administration was at elections, and then they would do it.

Mr. DANA was against the postponement of the subject, or the rising of the committee. It was to be recollected that the business had assumed its present shape only in consequence of the zeal of the gentleman from New York, and his coadjutors, to censure the Executive. On the 7th of February, it was committed to the whole House; contrary to the opinion of a number of gentlemen, who wished the facts investigated by a select committee; thirteen days then elapsed before he had prepared his resolutions—resolutions not calculated to make an inquiry into the conduct of the Executive, but expressive of the most pungent censure upon his conduct. These resolutions were produced upon the papers which, at the desire of those gentlemen, were submitted to the House. The only question then, is, Do the papers upon which those resolutions are predicated warrant the censure contained in them, or not?—It certainly would be a high reproach to the very idea of a public inquisition to admit more evidence upon those grounds. Still, however, let gentlemen go on in their heterogeneous proceedings, the House would have the wisdom justly to appreciate the various attempts made to clear themselves of a predicament in which their over-arduous attempts to censure had thrown them.

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Mr. LIVINGSTON conceived it his duty to answer the observations of the gentleman from Connecticut, (Mr. DANA,) as to the resolutions being founded upon the facts then before the House. He did not think the facts were precisely sufficient to warrant every idea contained in the resolutions. When the original call for papers was agreed to by the House, he had hoped that something more authentic than newspaper testimony would have been referred to by the Executive; and upon that he was now compelled to act, if at all. The gentleman has said that my zeal and that of my coadjutors, to censure the Executive, has brought us into this situation. Who, sir, I would ask the gentleman, are my coadjutors? That gentleman himself was my coadjutor, and every gentleman in the House, because the resolution was adopted. The House directed the inquiry, and every gentleman must therefore take the burden, in part, with me.

Mr. CRAIK said, that very early in this business he thought the House were entering into it very improperly, either having nothing at all to do with it, or else taking wrong measures, if they had; he thought then, and was yet of opinion, that if the object was to impeach the President, measures ought to have been taken accordingly. He never did look upon the House of Representatives as having either the power to censure or to approbate the conduct of the Executive, and, therefore, he equally disapproved of the resolutions of the gentlemen from New York and Delaware; and, upon that ground, he felt strongly inclined to vote with the gentleman from Kentucky for giving the whole subject the go by, and getting clear of it by any possible means.

Mr. HARPER agreed with the gentleman, that it would be folly for the House to spend time in useless discussion, which could lead to no decision; but, viewing this resolution as he did, he must conclude it of more importance; he thought it the direct road to an impeachment of the President of the United States, and, if so, surely it must appear important. The resolution declared, in express terms, that the Executive had exercised unconstitutional powers—one of the most dangerous crimes that he could commit. If he had so exercised his power, the inevitable consequence must be, that the President of the United States must be impeached by this House. Then, how could any gentleman say this was a trifling question, and one with which the House had nothing at all to do? Certainly no question can be more important.

Mr. RUTLEDGE regretted that he could not join with his friend from Maryland, (Mr. CRAIK,) in thinking this consideration useless; he believed the attention of the people had been called to view this subject, and they were anxiously looking for a decision in some way. Neither did he

think, with his honorable friend, that the House had nothing to do with it, because no impeachment could grow out of it. It was impossible to say what the gentleman meditated in his resolutions, but one thing was certain, if the gentleman has wished to promote an impeachment, he could not have taken a more direct means for it, if the resolutions should be carried.

Mr. KITCHELL thought no good could arise from the investigation of this subject, because he did not know what was to be done in it, let the decision be what it might. The gentleman from South Carolina (Mr. HARPER) wished to have an opportunity of showing that every part of the resolution was built on false ground. Every gentleman in the House was not so fond of speaking nor of hearing as was that gentleman, and he hoped, merely on that account, that the House would not spend time on what (in his opinion) could not possibly lead to impeachment. What effect could a discussion have, but to show the world that there were *parties* in the House, and to raise a rancorous disposition? He did not know what there was in the resolution that could lead to an impeachment, nor did he know what the House, in their censorial capacity, had to do but to impeach. He believed it out of the power of the House to applaud. In short, he did not think they had any thing to do with it.

Mr. NICHOLAS hoped the discussion would proceed. Although there might not be sufficient ground on which to impeach the Executive, he could not agree that, therefore, no inquiry ought to be made into his conduct; there might be an error in his conduct, and yet no impeachment be necessary to be raised out of it; and, if so, it would be extremely wrong to suffer it to go out to the world without a decision, after the subject had once been taken up by the House. Where there might be no bad intention or wicked design, the action might be of a dangerous tendency, and proper to be inquired into, in order to express an opinion thereupon. Mr. N. said he was well pleased that his opinion, that the motion ought to be negatived, accorded with that of the gentleman from South Carolina, because it would afford him an opportunity of showing what he said he could show.

Mr. BAYARD had no doubt of the competency of the House either to impeach, to censure, or to approbate the conduct of the Executive, and of course both the resolutions were in their power.

Several gentlemen had intimated that the authentic evidence and the whole of the documents were not before the House, and that the Executive Department was to blame for the deficiency. It appeared that the gentleman himself had forgotten the import of his resolution; it called for such documents as might be in possession of the Department of State. Now, what could possibly be in possession of that Department? The President of the United States had his duties to perform, and the judge of the district his duties; each had their separate documents; and, as neither interfered with the other, therefore, it could not be expected to be in the power of the President to furnish the papers belonging to the courts of South Carolina, any further than they came within the joint duties of both. Agreeably to treaty, the British Consul made a requisition for the person; a copy of this, and the several letters and instructions, were sent to the House, but it was not in the power of the Executive to order the judge to furnish him with a record of the proceedings; he was not bound to furnish it if the President had called for it, and no doubt he had furnished the House with every paper in his possession.

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Mr. OTIS said, when first the motion was made by the gentleman from Kentucky, he felt for a moment inclined to lean to it; the motives of that gentleman appeared to be so candid and liberal, that, for the moment, Mr. O. confessed, his feelings got the better of his reason. But a short reflection induced him to change an opinion thus hastily formed, and he felt satisfied that to vote with him, would be to display, in the conduct of gentlemen who wished to support the Administration of this country, worse than censure. He joined that gentleman in regret that it had gone so far, but certainly it was a subject of the most irritating nature possible: a charge the most serious; a breach of law by the Executive Magistrate, who is bound to support it and see it carried into effect. It is certainly a charge of much importance, and however disagreeable it might feel to him, Mr. O. said, he must vote that every argument should be used that could possibly tend to substantiate the charge, that nothing of truth might be hidden.

Mr. O. said he did not know to what points the evidence required by the gentleman from New York could apply, except it was to that of his being an American citizen, and of his being impressed. An affidavit was produced to prove these facts, but it would be found from an examination of the documents that nothing relating to those points was in the office of the Department of State; for the date of the affidavit of Robbins is the 25th of July, but the order of the Secretary of State bears date the 5th of June, so that no papers as to his claim can be in the possession of that department. Mr. O. thought the documents before the House contained every thing that was important to the point.

Mr. CRAIK was sorry that gentlemen who advocated this motion should be charged with an opposition to the administration of Government; he believed his conduct had heretofore evinced a different line of conduct. He still denied that the mode taken by the resolution could lead to impeachment. It certainly did contain a very great censure, and one which the House had no authority to inflict.

Mr. GALLATIN considered the motion to be grounded on two ideas; that there was not sufficient foundation for the House to act upon, and therefore that it was necessary to discharge the committee, or postpone the subject for want of further evidence.

It is clear, said Mr. G., that the evidence is not sufficient to impeach the District Judge of South Carolina. If an impeachment of him was the object, it would be impossible to carry it forward without an authoritative copy of the record of the court; but if there was no intention to impeach, he did not think there was any material evidence wanted in order to decide upon the resolution,



since it only meant an implication of censure upon the Executive and the District Judge, and not impeachment.

Mr. G. agreed there was at first sight some weight in the sentiment expressed by the gentleman from Maryland, (Mr. CRAIK,) that the House had only a power to impeach but not to censure; but certainly, when it was considered that an act might be committed without any ill motive, and yet the act be injurious, it could not be the subject of impeachment, but it might be of censure. The same act committed with a criminal motive would be impeachable, which without it would be of a nature not to admit of it.

Again: Mr. G. thought that though the House might have ground whereupon to censure, they ought not, at any time; but they had exercised that power. They had in a number of cases approved of the conduct of the President, and if the act of approbation had been done, they surely had as much power to disapprove and censure.

The question was then taken on the motion to discharge the Committee of the Whole from the further consideration, and negatived—yeas 14, nays 76.

### **THURSDAY, February 27.**

Another member, to wit, JOHN SMITH, from New York, appeared, produced his credentials, was qualified, and took his seat.

#### ***Case of Jonathan Robbins.***

Mr. DAVIS said, as the House had yesterday thought proper to negative a proposition to discharge the Committee of the Whole from the further consideration of the business, and as one great motive for that motion was the incompetency of evidence before the House, and as he knew it was in the power of the House to procure that evidence by a proper application, he hoped gentlemen would now indulge him in the adoption of the following, which he moved, viz:

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before this House a copy of the proceedings of the court held in the district of South Carolina, in the case of Thomas Nash, calling himself Jonathan Robbins.

Mr. BAYARD said, if he was persuaded, or if the gentleman could convince him that there was any particular evidence in the hands of any officer that would tend to throw such light as to give the least explanation to the case, he certainly would be willing to accord with the resolution; but he believed every necessary fact was before the House, and this had been acknowledged by several gentlemen. If the object was to prove that Nash was an American citizen, and that he was impressed, that could not be necessary as it respected the resolutions of the gentleman from New York, for that gentleman himself had acknowledged that he believed no such thing, but that the whole claim was falsehood. Would the gentleman, then, inform the House what point he wished to ascertain, or in what he expected additional proof? He wished information, farther, who was the "proper officer" to whom reference was expected to be made. There are but two officers at all in view, one is the Secretary of State, the other the District Judge of South Carolina; the gentleman could not suppose that the Judge would be able to transmit the records of that court previous to the adjournment of the House; and if it could be obtained, no evidence to the point could be expected from him. If, on the other hand, it was meant to call on the Secretary of State, it was not to be expected, from the nature of the case, that any more documents were in his hands than those already furnished; he had given copies of the correspondence and requisition, which, it might be fairly inferred, from the nature of his office, was all of which he could be possessed. But if any gentleman doubted this fact, he could apply to the office of the Secretary of State, from whom he could procure whatever was in his possession.

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If it was the intention of the House to close this very disagreeable business in the present session, they must negative the resolution and let the discussion go forward. The gentleman who brought forward the resolution ought to have been provided with every document that was necessary to support the charges, before he suffered them to appear. However, he did not think but the gentleman who proposed the resolutions thought his grounds were quite sufficient to support them.

Mr. NICHOLAS said he always believed that the testimony was incomplete, but when he heard a gentleman get up and mention particular testimony which he considered so important that without it he should not know how to vote, whatever, Mr. N. said, might have been his former satisfaction as to the establishment of the points, he certainly must now be inclined to grant gentlemen every point of evidence that they should think necessary, if within the reach of the House.

One particular piece of testimony had been mentioned, viz: that the man had filed an affidavit that he was an American citizen and was impressed on board a British man-of-war. Could any gentleman pretend to say that no inference might be drawn from this source and the concomitant facts? The gentleman from New York, to be sure, had declared his satisfaction with the facts that had been produced to the House, but did the gentleman from Delaware know that this was the case with any other gentleman in the House? That gentleman's conclusions and impressions were not to be taken as the opinions of others, nor were others obliged to be satisfied because he was; and therefore to couple others in a measure to which they were not privy, and to ascribe opinions to them which they had not expressed, was at least unfair.

Mr. DANA thought this a most extraordinary resolution indeed? Was the President of the United States the clerk of the court, to keep the records of it? What had the President to do with the proceedings of that court? It was certainly a total departure from all the forms of judicial proceedings to suppose a thing of the kind. The gentlemen must certainly have mistaken the situation held by the President, or they would never have made such a vast departure from order and propriety of proceeding. The President is not the public accuser; he is not to be called upon for papers with which he has nothing to do. When he found gentlemen outraging every thing that belonged to judicial propriety; when he found them stumbling into error after error, and departing totally from all jurisprudential propriety, Mr. D. said, he could not avoid rising to oppose it.

Mr. LIVINGSTON said he did hope that this motion would not have been brought forward; but as he meant to vote in favor of it, after having declared his satisfaction with the documents, as sufficient to support his resolutions, he should be accused of advocating a question of which he had before spoken apparently differently, unless he should now give his reasons; and lest he should be accused of a desire to keep alive a calumny against the President of the United States, an effect which had been stated, he took opportunity to answer the insinuation by saying that he as much abhorred so mean a principle as any gentleman in the House.

Mr. MARSHALL said, it was with no inconsiderable regret that he perceived so much of the time of the House, which ought to be devoted to more beneficial purposes, employed in preliminary discussion. He thought that it was impossible the House could agree to a postponement, which the motion under consideration must cause when it was reflected how much time must be employed in procuring those papers—it could not take less than a month; for they could only be found, he would presume to say in the Court of the District of South Carolina: it was therefore scarcely to be expected that they could be obtained until just before the rising of the House, a period, if they arrived before the House rose, too late for their consideration.

Mr. BAYARD said he could not distinguish between the present motion and one yesterday negatived, because it must operate as a discharge upon the Committee of the whole House. There could be no doubt but the Secretary of State had furnished all the papers relative to the business in his possession—indeed, he could assuredly say so. He said he held in his hand a letter from the Secretary of State, in answer to one from an honorable member of the House inquiring whether there were any more documents in his office; he answered that he had no certified copy whatever but those which he had furnished the President with, from whom they came to the House. Gentlemen must then perceive that the mere operation of this resolution was an absolute and inevitable postponement of the business till another session. Many gentlemen, who were yesterday ashamed to vote for a postponement, would now have a plausible cover for their vote by calling for additional proof, to accomplish the object of the resolution of yesterday; and thus he feared it would have many advocates, but, however specious the pretext, he hoped it would not be carried.

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Mr. RUTLEDGE conceived this motion to be the same as to postpone the business. Further information was wanted, and that information could alone come from South Carolina. He wished the gentleman from Kentucky would read the resolution before he pressed his motion: he would find that the District Judge was not charged; no, it was only a charge against the Executive; there was not a word of irregularity of proceeding in the Court, but the Executive was seriously charged.

Mr. DAVIS explained. He said his objects were to have the record in order to see whether Robbins did produce a certificate that he was an American citizen; to see a copy of the warrant by which he was committed; and thirdly, to know what stratagem or what proceedings were used to take him out of the cognizance of the Court, where he must have remained, if the President had not interfered. These things he wished to ascertain, but that would be impossible without the court record.

Mr. RUTLEDGE said, he conceived this to be the object, but he by no means thought that the gentleman would be satisfied on these points, were he to be possessed of the record. The gentleman might inquire the reasons for the Executive and Judicial conduct being as it was, but perhaps he would not receive the information. Every gentleman in the House would unite their vote to procure all the testimony within their reach, so as to enable the House to prosecute the business. We know, said Mr. R., what monstrous clamor has been raised about this business; we know that great pains have been taken to make the people believe that their fellow-citizen has been torn from his country; that he has been impressed into a foreign service; that the treaty has been violated; that their fellow-citizen has been taken to a foreign country, and there been tried in a summary manner and executed. We have been told for months past that this business would be inquired into; we wish not to avoid it; we will by all means in our power assist it; we have done it. Some time since papers were asked for, we agreed with gentlemen that they should be furnished; it was done, and they are now on your table. They have been there many days; so that gentlemen had sufficient time, long before this, to have known whether they were satisfied or not. The gentleman himself who brought forward the resolutions affected to be satisfied, but, in compliance with the wish of his friends, he now wishes to postpone it. We want to bring the matter to a decision, and so far as we can accommodate gentlemen and avoid delay we will do it.

Mr. NICHOLSON rose to correct what he considered a mistake in the gentleman last up, (Mr. RUTLEDGE,) when he said that the Executive only was implicated in the resolutions; he conceived that the District Judge of South Carolina was implicated, and that the papers of that court were necessary to examine the conduct of that judge. He read the resolution, and contended that his deduction was accurate. Mr. N. said he wanted to know whether the District Judge of South

Carolina had committed this man for trial; this would appear or be disproved by the warrant.

That the President of the United States was not to be considered as the servant of that House, he was willing to admit, but he did not think that the President might, with propriety, apply to the judge of the district for the documents of the court; and he did not believe that the President would object to make the application. However, the object he presumed was to procure the papers, no matter from whom; that being the object, he hoped the mover of the resolution would withdraw it, in order to accommodate it more to the feelings of some members in the House, by adopting something like the following:

*Resolved*, That the Speaker of the House of Representatives be requested to procure, from the Clerk of the District Court of South Carolina, copies, under seal, of the proceedings of that court, together with the evidence produced in the case relative to the requisition for Thomas Nash, alias Jonathan Robbins, who was delivered to His Britannic Majesty's Consul.

Mr. DAVIS withdrew his resolution, and Mr. NICHOLAS moved the substitute, which was now before the House.

Mr. HARPER moved a postponement of this resolution to this day week. The object of the resolution which was before the Committee of the Whole was twofold—a charge on the President, and a charge on the District Judge. So much as related to the President of the United States, it was manifest that the testimony called for by this resolution could have no effect whatever upon him, because he left the whole to the judge. The President went no further than to declare that if it should appear that the acts committed by this man came within the purview of the British Treaty, the man ought to be delivered up conformably to that stipulation.

Mr. NICHOLAS thought, with the gentleman last up, that if the only inquiry was as to the conduct of the President, or if the inquiry was only to respect the judge, the papers might be dispensed with; but it was otherwise—the conduct of both was called forth to view by the resolutions, but how far the conduct of either may be reprehensible, depended on the testimony which might appear before the House. It was impossible to say what the President had done until the documents should be seen. If gentlemen refused the inquiry being made of the court in South Carolina, they, by that act, made the President answerable for every part of the facts, which he believed they would not pretend to do. He really believed it extremely important to know what steps had been taken in this very serious business, to know whether the man was in course for trial, and whether the President had acted in the hasty and premature manner which was stated, in delivering him up.

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Mr. GALLATIN could not help observing the disposition which gentlemen evinced of placing the opinions and sensations expressed by one gentleman to the account of others. To take a fair view of the resolutions, what did they amount to? Nothing more than the deductions which one man had drawn from the message sent to this House by the Executive: these deductions, in the form of a resolution, he had submitted to the consideration of the Committee of the Whole. Now, except it could be proved that that gentleman had made all the deductions of and acted for every gentleman, there could be no ground for saying that every gentleman would be satisfied, without the evidence which might be collected from the records of the District Court of South Carolina. Was any gentleman in the House bound to be satisfied, with the gentleman from New York, that all the facts necessary to be known were furnished? Was every gentleman in the House bound to confine himself solely to the resolutions before the House? Certainly not. It could not be denied that the evidence now required was essential to a full investigation of the conduct of the judge, who was the principal agent of the Executive in this case.

Mr. H. LEE hoped that the gentleman from South Carolina would withdraw his motion. He would mention some reasons which would induce him to vote differently from gentlemen with whom he usually had the honor to vote. Considering this a question of very great importance, not only to the American people, and to the reputation of the House, but also to the highly respectable character presiding over our Government, he trusted the House would, in its whole process, be led by principles so fair and candid, as not to leave the least room for a charge of derogation from its own dignity or of the great subject it was discussing.

He would vote for the motion calling for the papers, but he would do it with an expectation that it would not postpone the discussion of the business so far as related to the conduct of the President of the United States. It appeared that the conduct of the President, as charged, was fully before the House; there could be no difficulty therefore to proceed on it; but, as far as respected the judge, Mr. L. trusted the record of the court would be sent, for he thought it but fair to gratify gentlemen who considered there was any material evidence wanting.

Mr. VARNUM would vote for the resolution proposed; he thought it was doubtful whether the President had acted with propriety or not; but he believed if there had been any incidental impropriety of conduct, it was never done with an evil design, nor with a view to interfere with any other department of the Government; but certainly to deny this evidence, which several gentlemen had stated to be necessary to assist them in making up their minds, would stamp a censure on the conduct of those officers as great as that contained in the resolution. He thought the gentleman from New York had a right to bring the subject to the view of the House. If he saw any proceeding which to him appeared dangerous, it was his duty to commence an investigation. No man ought to flinch from what he thought right. The only way to give public satisfaction, in a matter that had so much engaged public attention, was to give all the evidence which could be procured, and let the matter be investigated to the bottom; and, most assuredly, the only way effectually to clear the characters implicated, if they were innocent, was to leave no doubt as to

the desire of the House to scrutinize their conduct. But, certainly, the very great reluctance which gentlemen showed to procure all the evidence, and, after all, their denial of it, must leave a suspicion bordering much on guilt.

Mr. BAYARD rose, in answer to Mr. GALLATIN and others, and observed, that, with respect to Nash calling himself an American citizen before that court, (an object which it was desired to prove by this call for evidence,) they were asked to admit the fact. Mr. B. asked, would these gentlemen admit that Nash was guilty of the dreadful murders committed on board the British frigate? Would they admit that he falsely made the claim? However, he had no disposition to rest on that point. Another fact, however, which it was required to admit was as to the jurisdiction of the court of the United States upon the case. Mr. B. denied this, and repeated the former arguments in proof of his opinion. He insisted that the whole arrest and proceeding was had at the instance of the British Consul and Minister, in proof of which he quoted their letters. The record, he said, could not possibly dispense any light to this fact; the record would only give the warrant and some of the depositions first taken before the judge; but as to the court being designated where the case was to be tried, he contended that it was not usual to insert it in the warrant—he never saw one so drawn. It was possible that Nash was committed with a view to be delivered up to the British, before the letter was received by the judge from the President; and it was very reasonable that the whole previous business was at the instigation of the British agent, but it was impossible to prove that jurisdiction had attached before the letter directing the delivery to be made was received.

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Mr. JONES said, that finding himself, from the vote he was about to give, implicated in the charge made by the gentleman from Delaware, (Mr. BAYARD,) that gentlemen who were yesterday ashamed to vote for the proposition to discharge the committee from further consideration of the subject, in general and express terms, because it would imply a distrust of the sufficiency of the ground on which to support the principles of the resolutions, were now disposed to effect the same object by a decision which would, in fact, go to evade the question during the present session, he felt himself impelled, by a respect for his own conduct, to explain the motives which would govern his vote on the present question. He considered the case which had been called into view by the proposition of the gentleman from New York, (Mr. LIVINGSTON,) as one that involved in it the dearest interests and deepest concerns of the people of the United States. The gentleman from Delaware (Mr. BAYARD) and the gentleman from Connecticut (Mr. DANA) had indulged themselves in the most violent invectives and unnecessary abuse against the unfortunate, the obscure, and insignificant character, now dead, who was the subject of this proposition. On this topic they had exercised all their powers of passionate declamation. If this was a grateful theme for the employment of their talents, he did not envy them the enjoyment of it. How that kind of argument would apply to the question, he left to the House to determine.

For his part, Mr. J. said, he deemed it totally immaterial whether the man was, as they had declared, an Irishman or not; whether he was a Turk, a Hottentot, or a native-born American, if he claimed to be an American citizen, and produced a certificate in due form, under the signature of a proper officer, of his citizenship, and that claim was slighted by the judge, or declared immaterial, and the fact not inquired into of his being a citizen, then he conceived the safety of the citizens of America to be equally put in jeopardy, as if the man had been born and raised in Charleston, in the circle of the judge's own acquaintance. If, he asked, a dagger aimed at my breast by an assassin in the dark, should by mistake or impetuosity pierce the bosom of another, would not the discovery of such an attempt awaken alarm, and demand a precaution for my future safety? Certainly it would. So in this case, if this man claimed to be a citizen, and wore about him the legal voucher of that claim, and if he was told in the presence of American citizens, "it is of no importance whether you are, or are not a citizen, that is a point of no concern in the case," notwithstanding it may afterwards be found he was no citizen, yet would it equally involve the safety of every true citizen who might fall into similar circumstances. We may congratulate ourselves that it has not fallen on a fellow-citizen, but we ought still to improve the lesson this case has presented. Mr. J. hoped that it would be improved, and that, at least, legislative provisions would be made to prevent this decision from operating on a citizen, if such a case should occur in future.

The question was then taken on the motion of Mr. HARPER, to postpone the consideration of the motion of Mr. NICHOLSON, for a call of the record of the District Court of South Carolina, for one week, and negatived—yeas 32, nays 63.

The question then recurred upon adopting the resolutions.

Mr. MARSHALL spoke at length against it. He contended there was no prospect of coming to a decision of the original question this session, if this were adopted; and asked if the character of the President of the United States ought to be held up in the suspicious view in which the resolution placed it, until the next session of Congress? He hoped not. It seemed to him that a postponement amounted to a declaration to the people of America that there was much cause for suspicion, and that additional evidences were wanted to substantiate it.

Mr. NICHOLAS replied to Mr. M., and contended that the whole truth of the case was to come out of the additional testimony now asked for.

An adjournment was then called for, and negatived—yeas 30.

Mr. RANDOLPH spoke in favor of the resolution, and in answer to Mr. MARSHALL.

The question was then taken that the House do agree to the motion first proposed, and passed in the negative—yeas 44, nays 57.

And then the House adjourned.

### **FRIDAY, February 28.**

Mr. HARPER moved a postponement of the order of the day on the business of Jonathan Robbins, until Monday. He did not conceive much progress would be made this day, and as there was much private business on hand it could not be gone through with. If the business be taken up on Monday it can be regularly gone through with without intermission.

The motion was agreed to.

### **MONDAY, March 3.**

#### ***Lake Superior Lands.***

Mr. COOPER observed that a navy was considered an object of great importance, as was also our extended commerce, and neither of these could be carried on to any profit without a very liberal use of copper. That article could not be purchased at present at less than half a dollar a pound, but by attention to an object which was within our own power it might be had at a very low price. From these considerations he laid on the table the following resolution:

*Resolved*, That a committee be appointed to bring in a bill authorizing the President of the United States to appoint an agent to purchase of the Indians that tract of land on the south side of Lake Superior, which shall include the great copper bed.

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Mr. C. said, as this invaluable copper mine was well known by individuals, it no doubt would soon become an object of speculation, but wishing to make it of public utility, as it must become if purchased, he hoped the proposition would be adopted.

#### ***Jonathan Robbins.***

The House then resolved itself into a Committee of the Whole on the Message of the President respecting Jonathan Robbins, when Mr. LIVINGSTON spoke about three hours in support of the resolutions he some time since submitted to the House on that subject.

Mr. BAYARD was proceeding to follow Mr. L. when a member moved the committee to rise and ask leave to sit again. Mr. B. objected: he said he was prepared to proceed if the House would have patience at that late hour to hear him. Several members expressed a desire that he might proceed, which he was doing, when the SPEAKER hoped the gentleman would give way to a motion for the committee to rise; he had no doubt of his friend being prepared for the discussion, but from the length the answer must necessarily take, the House certainly would be fatigued much before he would conclude. The motion was made and carried.

During Mr. LIVINGSTON'S observations he introduced a copy of the record of the Circuit Court in New Jersey, where three men were tried and acquitted on the charge of piracy, and one of them for murder, on board of the same frigate and at the same time. This record, on motion of Mr. RUTLEDGE, was ordered to be printed.

Mr. NICHOLAS, not being able to account to his satisfaction for the obvious change of conduct in our Executive in this recited instance and the one now under the consideration of the House (though precisely the same in facts) any other way than by supposing that a correspondence on the subject had occurred between the Executive of the United States and the British Government; though he expressed himself to be extremely unwilling, yet he thought it his duty to move that the President be requested to furnish it to the House.

An adjournment was immediately called and carried.

### **WEDNESDAY, March 5.**

The House then resolved itself into a committee on the Message, when Mr. BAYARD proceeded, in answer to Mr. LIVINGSTON, in which he spoke about three hours.<sup>[50]</sup> The committee then rose, and obtained leave to sit again.

### **THURSDAY, March 6.**

A message from the Senate informed the House that the Senate had passed the bill, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," with an amendment; to which they desire the concurrence of this House.

#### ***Jonathan Robbins.***

The House went into Committee of the Whole on the Message of the PRESIDENT, in the case of Jonathan Robbins, when Mr. NICHOLAS spoke about three hours<sup>[51]</sup> in favor of the resolutions introduced by Mr. LIVINGSTON, which were negatived—yeas 34, nays 58.

Some discussion then took place on taking up the resolution presented by Mr. BAYARD, which was

also with the Committee of the whole House. The committee at length rose without entering upon it, and reported their disagreement to the resolutions proposed by Mr. LIVINGSTON; and the question whether the committee should have leave to sit again was taken by yeas and nays, and carried—yeas 59, nays 38.

The question was then before the House to agree to the report of the committee in their disagreement with the resolutions.

Mr. GALLATIN rose, and entered generally into the argument, in a speech of about two hours, after which the House adjourned.<sup>[52]</sup>

## FRIDAY, March 7.

### *Jonathan Robbins.*

The House took up the unfinished business of yesterday, and the question, Will the House agree with the Committee of the Whole in their disagreement to Mr. LIVINGSTON'S resolutions? being under consideration,

Mr. MARSHALL said, that believing, as he did most seriously, that in a Government constituted like that of the United States, much of the public happiness depended, not only on its being rightly administered, but on the measures of Administration being rightly understood—on rescuing public opinion from those numerous prejudices with which so many causes might combine to surround it, he could not but have been highly gratified with the very eloquent, and what was still more valuable, the very able and very correct argument which had been delivered by the gentleman from Delaware (Mr. BAYARD) against the resolutions now under consideration. He had not expected that the effect of this argument would be universal; but he had cherished the hope, and in this he had not been disappointed, that it would be very extensive. He did not flatter himself with being able to shed much new light on the subject; but, as the argument in opposition to the resolutions had been assailed with considerable ability by gentlemen of great talents, he trusted the House would not think the time misapplied which would be devoted to the re-establishment of the principles contained in that argument, and to the refutation of those advanced in opposition to it. In endeavoring to do this, he should notice the observations in support of the resolutions, not in the precise order in which they were made; but as they applied to the different points he deemed it necessary to maintain, in order to demonstrate, that the conduct of the Executive of the United States could not justly be charged with the errors imputed to it by the resolutions.

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His first proposition, he said, was that the case of Thomas Nash, as stated to the President, was completely within the 27th article of the Treaty of Amity, Commerce, and Navigation, entered into between the United States of America and Great Britain.

He read the article, and then observed: The *casus fœderis* of this article occurs, when a person, having committed murder or forgery within the jurisdiction of one of the contracting parties, and having sought an asylum in the country of the other, is charged with the crime, and his delivery demanded, on such proof of his guilt as, according to the laws of the place where he shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed.

The case stated is, that Thomas Nash, having committed murder on board of a British frigate, navigating the high seas under a commission from His Britannic Majesty, had sought an asylum within the United States; on this case his delivery was demanded by the Minister of the King of Great Britain.

It is manifest that the case stated, if supported by proof, is within the letter of the article, provided a murder committed in a British frigate, on the high seas, be committed within the jurisdiction of that nation. That such a murder is within their jurisdiction, has been fully shown by the gentleman from Delaware. The principle is, that the jurisdiction of a nation extends to the whole of its territory, and to its own citizens in every part of the world. The laws of a nation are rightfully obligatory on its own citizens in every situation where those laws are really extended to them. This principle is founded on the nature of civil union. It is supported every where by public opinion, and is recognized by writers on the laws of nations. *Rutherford*, in his second volume, page 180, says: "The jurisdiction which a civil society has over the persons of its members, affects them immediately, whether they are within its territories or not."

This general principle is especially true, and is particularly recognized, with respect to the fleets of a nation on the high seas. To punish offences committed in its fleets, is the practice of every nation in the universe; and consequently the opinion of the world is, that a fleet at sea is within the jurisdiction of the nation to which it belongs. *Rutherford*, vol. ii. p. 491, says: "there can be no doubt about the jurisdiction of a nation over the persons which compose its fleets, when they are out at sea, whether they are sailing upon it or are stationed in any particular part of it."

The gentleman from Pennsylvania, (Mr. GALLATIN,) though he has not directly controverted this doctrine, has sought to weaken it by observing that the jurisdiction of a nation at sea could not be complete even in its own vessels; and in support of this position he urged the admitted practice of submitting to search for contraband—a practice not tolerated on land, within the territory of a neutral power. The rule is as stated; but is founded on a principle which does not affect the jurisdiction of a nation over its citizens or subjects in its ships. The principle is, that in the sea itself no nation has any jurisdiction. All may equally exercise their rights, and consequently the

right of a belligerent power to prevent aid being given to his enemy, is not restrained by any superior right of a neutral in the place. But, if this argument possessed any force, it would not apply to national ships-of-war, since the usage of nations does not permit them to be searched.

According to the practice of the world, then, and the opinions of writers on the law of nations, the murder committed on board the British frigate navigating the high seas, was a murder committed within the jurisdiction of the British nation.

Although such a murder is plainly within the letter of the article, it has been contended not to be within its just construction; because at sea all nations have a common jurisdiction, and the article correctly construed, will not embrace a case of concurrent jurisdiction.

It is deemed unnecessary to controvert this construction, because the proposition, that the United States had no jurisdiction over the murder committed by Thomas Nash, is believed to be completely demonstrable.

It is not true that all nations have jurisdiction over all offences committed at sea. On the contrary, no nation has any jurisdiction at sea, but over its own citizens or vessels, or offences against itself. This principle is laid down in 2 *Ruth.* 488, 491.

The American Government has, on a very solemn occasion, avowed the same principle. The first Minister of the French Republic asserted and exercised powers of so extraordinary a nature, as unavoidably to produce a controversy with the United States. The situation in which the Government then found itself was such as necessarily to occasion a very serious and mature consideration of the opinions it should adopt. Of consequence, the opinions then declared deserve great respect. In the case alluded to, Mr. Genet had asserted the right of fitting out privateers in the American ports, and of manning them with American citizens, in order to cruise against nations with whom America was at peace. In reasoning against this extravagant claim, the then Secretary of State, in his letter of the 17th of June, 1793, says:

"For our citizens then to commit murders and depredations on the members of nations at peace with us, or to combine to do it, appeared to the Executive, and to those whom they consulted, as much against the laws of the land as to murder or rob, or combine to murder or rob its own citizens; and as much to require punishment, if done within their limits, where they have a territorial jurisdiction, or on the high seas, where they have a personal jurisdiction, that is to say, one which reaches their own citizens only; this being an appropriate part of each nation, on an element where all have a common jurisdiction."

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The well considered opinion, then, of the American Government on this subject is, that the jurisdiction of a nation at sea is "personal," reaching its "own citizens only;" and that this is the "appropriate part of each nation" on that element.

This is precisely the opinion maintained by the opposers of the resolutions. If the jurisdiction of America at sea be personal, reaching its own citizens only; if this be its appropriate part, then the jurisdiction of the nation cannot extend to a murder committed by a British sailor, on board a British frigate navigating the high seas under a commission from His Britannic Majesty.

As a further illustration of the principle contended for, suppose a contract made at sea, and a suit instituted for the recovery of money which might be due thereon. By the laws of what nation would the contract be governed? The principle is general that a personal contract follows the person, but is governed by the law of the place where it is formed. By what law then would such a contract be governed? If all nations had jurisdiction over the place, then the laws of all nations would equally influence the contract; but certainly no man will hesitate to admit that such a contract ought to be decided according to the laws of that nation to which the vessel or contracting parties might belong.

Suppose a duel, attended with death, in the fleet of a foreign nation, or in any vessel which returned safe to port, could it be pretended that any government on earth, other than that to which the fleet or vessel belonged, had jurisdiction in the case; or that the offender could be tried by the laws or tribunals of any other nation whatever?

Suppose a private theft by one mariner, from another, and the vessel to perform its voyage and return in safety, would it be contended that all nations have equal cognizance of the crime, and are equally authorized to punish it?

If there be this common jurisdiction at sea, why not punish desertion from one belligerent power to another, or correspondence with the enemy, or any other crime which may be perpetrated? A common jurisdiction over all offences at sea, in whatever vessel committed, would involve the power of punishing the offences which have been stated. Yet all gentlemen will disclaim this power. It follows, then, that no such common jurisdiction exists.

In truth the right of every nation to punish is limited, in its nature, to offences against the nation inflicting the punishment. This principle is believed to be universally true. It comprehends every possible violation of its laws on its own territory, and it extends to violations committed elsewhere by persons it has a right to bind. It extends also to general piracy.

A pirate, under the law of nations, is an enemy of the human race. Being the enemy of all, he is liable to be punished by all. Any act which denotes this universal hostility, is an act of piracy.

Not only an actual robbery, therefore, but cruising on the high seas without commission, and with intent to rob, is piracy. This is an offence against all and every nation, and is therefore alike punishable by all. But an offence which in its nature affects only a particular nation, is only



punishable by that nation.

It is by confounding general piracy with piracy by statute, that indistinct ideas have been produced, respecting the power to punish offences committed on the high seas.

A statute may make any offence piracy, committed within the jurisdiction of the nation passing the statute, and such offence will be punishable by that nation. But piracy under the law of nations, which alone is punishable by all nations, can only consist in an act which is an offence against all. No particular nation can increase or diminish the list of offences thus punishable.

It has been observed by his colleague, (Mr. NICHOLAS,) for the purpose of showing that the distinction taken on this subject by the gentleman from Delaware (Mr. BAYARD) was inaccurate, that any vessel robbed on the high seas could be the property only of a single nation, and being only an offence against that nation, could be, on the principle taken by the opposers of the resolutions, no offence against the law of nations; but in this his colleague had not accurately considered the principle. As a man who turns out to rob on the highway, and forces from a stranger his purse with a pistol at his bosom, is not the particular enemy of that stranger, but alike the enemy of every man who carries a purse, so those who without a commission rob on the high seas, manifest a temper hostile to all nations, and therefore become the enemies of all. The same inducements which occasion the robbery of one vessel, exist to occasion the robbery of others, and therefore the single offence is an offence against the whole community of nations, manifests a temper hostile to all, is the commencement of an attack on all, and is consequently, of right, punishable by all.

His colleague had also contended that all the offences at sea, punishable by the British statutes from which the act of Congress was in a great degree copied, were piracies at common law, or by the law of nations, and as murder is among these, consequently murder was an act of piracy by the law of nations, and therefore punishable by every nation. In support of this position he had cited 1 *Hawk. P. C.* 267. 271-3, *Inst.* 112, and 1 *Woodeson*, 140.

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The amount of these cases is, that no new offence is made piracy by the statutes; but that a different tribunal is created for their trial, which is guided by a different rule from that which governed previous to those statutes. Therefore, on an indictment for piracy, it is still necessary to prove an offence which was piracy before the statutes. He drew from these authorities a very different conclusion from that which had been drawn by his colleague. To show the correctness of his conclusion, it was necessary to observe, that the statute did not indeed change the nature of piracy, since it only transferred the trial of the crime to a different tribunal, where different rules of decision prevailed; but having done this, other crimes committed on the high seas, which were not piracy, were made punishable by the same tribunal; but certainly this municipal regulation could not be considered as proving that those offences were, before, piracy by the law of nations. [Mr. NICHOLAS insisted that the law was not correctly stated, whereupon Mr. MARSHALL called for 3 *Inst.* and read the statute:]

"All treasons, felonies, robberies, murders, and confederacies, committed in or upon the seas, &c., shall be inquired, tried, heard, determined and judged in such shires, &c., in like form and condition as if any such offence had been committed on the land," &c. "And such as shall be convicted, &c., shall have and suffer such pains of death, &c., as if they had been attainted of any treason, felony, robbery, or other the said offences done upon the land."

This statute, it is certain, does not change the nature of piracy; but all treasons, felonies, robberies, murders, and confederacies, committed in or upon the sea, are not declared to have been, nor are they piracies. If a man be indicted as a pirate, the offence must be shown to have been piracy before the statute; but if he be indicted for treason, felony, robbery, murder, or confederacy, committed at sea, whether such offence was or was not a piracy, he shall be punished in like manner as if he had committed the same offence on land. The passage cited from 1 *Woodeson*, 140, is a full authority to this point. Having stated that offences committed at sea were formerly triable before the Lord High Admiral, according to the course of the Roman civil law, *Woodeson* says:

"But, by the statutes 27 H. 8. c. 4, and 28 H. 8. c. 15, all treasons, felonies, piracies, and other crimes committed on the sea, or where the admiral has jurisdiction, shall be tried in the realm as if done on land. But the statutes referred to affect only the manner of the trial as far as respects piracy. The nature of the offence is not changed. Whether a charge amount to piracy or not, must still depend on the law of nations, except where, in the case of British subjects, express acts of Parliament have declared that the crimes therein specified shall be adjudged piracy, or shall be liable to the same mode of trial and degree of punishment."

This passage proves not only that all offences at sea are not piracies by the law of nations, but also that all indictments for piracy must depend on the law of nations, "except where, in the case of British subjects, express acts of Parliament" have changed the law. Why do not these "express acts of Parliament" change the law as to others than "British subjects?" The words are general, "all treasons, felonies, &c." Why are they confined in construction to British subjects? The answer is a plain one: The jurisdiction of the nation is confined to its territory and to its own subjects.

The gentleman from Pennsylvania (Mr. GALLATIN) abandons, and very properly abandons, this untenable ground. He admits that no nation has a right to punish offences against another nation, and that the United States can only punish offences against their own laws and the law of



nations. He admits, too, that if there had only been a mutiny (and consequently if there had only been a murder) on board the *Hermione*, that the American courts could have taken no cognizance of the crime. Yet mutiny is punishable as piracy by the law of both nations. That gentleman contends that the act committed by Nash was piracy, according to the law of nations. He supports his position by insisting that the offence may be constituted by the commission of a single act: that unauthorized robbery on the high seas is this act, and that the crew having seized the vessel, and being out of the protection of any nation, were pirates.

It is true that the offence may be completed by a single act; but it depends on the nature of that act. If it be such as manifests generally hostility against the world—an intention to rob generally, then it is piracy; but if it be merely a mutiny and murder in a vessel, for the purpose of delivering it up to the enemy, it seems to be an offence against a single nation and not to be piracy. The sole object of the crew might be to go over to the enemy, or to free themselves from the tyranny experienced on board a ship-of-war, and not to rob generally.

But, should it even be true that running away with a vessel to deliver her up to an enemy was an act of general piracy, punishable by all nations, yet the mutiny and murder was a distinct offence. Had the attempt to seize the vessel failed, after the commission of the murder, then, according to the argument of the gentleman from Pennsylvania, the American courts could have taken no cognizance of the crime. Whatever then might have been the law respecting the piracy, of the murder there was no jurisdiction. For the murder, not the piracy, Nash was delivered up. Murder, and not piracy, is comprehended in the 27th article of the treaty between the two nations. Had he been tried then and acquitted on an indictment for the piracy, he must still have been delivered up for the murder, of which the court could have no jurisdiction. It is certain that an acquittal of the piracy would not have discharged the murder; and, therefore, in the so much relied on trials at Trenton, a separate indictment for murder was filed after an indictment for piracy. Since, then, if acquitted for piracy, he must have been delivered to the British Government on the charge of murder, the President of the United States might, very properly, without prosecuting for the piracy, direct him to be delivered up on the murder.

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All the gentlemen who have spoken in support of the resolutions, have contended that the case of Thomas Nash is within the purview of the act of Congress, which relates to this subject, and is by that act made punishable in the American courts. That is, that the act of Congress designed to punish crimes committed on board a British frigate. Nothing can be more completely demonstrable than the untruth of this proposition.

It has already been shown that the legislative jurisdiction of a nation extends only to its own territory, and to its own citizens, wherever they may be. Any general expression in a legislative act must, necessarily, be restrained to objects within the jurisdiction of the Legislature passing the act. Of consequence an act of Congress can only be construed to apply to the territory of the United States, comprehending every person within it, and to the citizens of the United States.

But, independent of this undeniable truth, the act itself affords complete testimony of its intention and extent. (*See Laws of the United States*, vol. i. p. 10.) The title is: "An act for the punishment of certain crimes against the United States." Not against Britain, France, or the world, but singly "against the United States."

The first section relates to treason, and its objects are, "any person or persons owing allegiance to the United States." This description comprehends only the citizens of the United States, and such others as may be on its territory or in its service.

The second section relates to misprision of treason; and declares, without limitation, that any person or persons, having knowledge of any treason, and not communicating the same, shall be guilty of that crime. Here then is an instance of that limited description of persons in one section, and of that general description in another, which has been relied on to support the construction contended for by the friends of the resolutions. But will it be pretended that a person can commit misprision of treason who cannot commit treason itself? That he would be punishable for concealing a treason who could not be punished for plotting it? Or, can it be supposed that the act designed to punish an Englishman or a Frenchman, who, residing in his own country, should have knowledge of treasons against the United States, and should not cross the Atlantic to reveal them?

The same observations apply to the sixth section, which makes any "person or persons" guilty of misprision of felony, who, having knowledge of murder or other offences enumerated in that section, should conceal them. It is impossible to apply this to a foreigner, in a foreign land, or to any person not owing allegiance to the United States.

The eighth section, which is supposed to comprehend the case, after declaring that if any "person or persons" shall commit murder on the high seas, he shall be punishable with death, proceeds to say, that if any captain or mariner shall piratically run away with a ship or vessel, or yield her up voluntarily to a pirate, or if any seaman shall lay violent hands on his commander, to prevent his fighting, or shall make a revolt in the ship, every such offender shall be adjudged a pirate and a felon.

The persons who are the objects of this section of the act are all described in general terms, which might embrace the subjects of all nations. But is it to be supposed that, if in an engagement between an English and a French ship-of-war, the crew of the one or the other should lay violent hands on the captain and force him to strike, that this would be an offence against the act of Congress, punishable in the courts of the United States? On this extended construction of the general terms of the section, not only the crew of one of the foreign vessels

forcing their captain to surrender to another, would incur the penalties of the act, but, if in the late action between the gallant Truxton and the French frigate, the crew of that frigate had compelled the captain to surrender, while he was unwilling to do so, they would have been indictable as felons in the courts of the United States. But surely the act of Congress admits of no such extravagant construction.

His colleague, Mr. M. said, had cited and particularly relied on the ninth section of the act; that section declares, that if a citizen shall commit any of the enumerated piracies, or any acts of hostility, on the high seas, against the United States, under color of a commission from any foreign Prince or State, he shall be adjudged a pirate, felon, and robber, and shall suffer death.

This section is only a positive extension of the act to a case which might otherwise have escaped punishment. It takes away the protection of a foreign commission from an American citizen, who, on the high seas, robs his countrymen. This is no exception from any preceding part of the law, because there is no part which relates to the conduct of vessels commissioned by a foreign power; it only proves that, in the opinion of the Legislature, the penalties of the act could not, without this express provision, have been incurred by a citizen holding a foreign commission.

It is most certain, then, that the act of Congress does not comprehend the case of a murder committed on board a foreign ship-of-war.

The gentleman from New York has cited 2 *Woodeson*, 428, to show that the courts of England extend their jurisdiction to piracies committed by the subjects of foreign nations.

This has not been doubted. The case from *Woodeson* is a case of robberies committed on the high seas by a vessel without authority. There are ordinary acts of piracy which, as has been already stated, being offences against all nations, are punishable by all. The case from 2 *Woodeson*, and the note cited from the same book by the gentleman from Delaware, are strong authorities against the doctrines contended for by the friends of the resolutions.

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It has also been contended that the question of jurisdiction was decided at Trenton, by receiving indictments against persons there arraigned for the same offence, and by retaining them for trial after the return of the habeas corpus.

Every person in the slightest degree acquainted with judicial proceedings, knows that an indictment is no evidence of jurisdiction; and that, in criminal cases, the question of jurisdiction will seldom be made but by arrest of judgment after conviction.

The proceedings, after the return of the habeas corpus, only prove that the case was not such a case as to induce the Judge immediately to decide against his jurisdiction. The question was not free from doubt, and, therefore, might very properly be postponed until its decision should become necessary.

It has been argued by the gentleman from New York, that the form of the indictment is, itself, evidence of a power in the court to try the case. Every word of that indictment, said the gentleman, gives the lie to a denial of the jurisdiction of the court.

It would be assuming a very extraordinary principle, indeed, to say that words inserted in an indictment for the express purpose of assuming the jurisdiction of a court, should be admitted to prove that jurisdiction. The question certainly depended on the nature of the fact, and not on the description of the fact. But as an indictment must necessarily contain formal words in order to be supported, and as forms often denote what a case must substantially be to authorize a court to take cognizance of it, some words in the indictments at Trenton ought to be noticed. The indictments charge the persons to have been within the peace, and murder to have been committed against the peace, of the United States. These are necessary averments, and, to give the court jurisdiction, the fact ought to have accorded with them. But who will say that the crew of a British frigate on the high seas, are within the peace of the United States? or a murder committed on board such a frigate, against the peace of any other than the British Government?

It is, then, demonstrated that the murder with which Thomas Nash was charged, was not committed within the jurisdiction of the United States, and, consequently, that the case stated was completely within the letter and the spirit of the twenty-seventh article of the treaty between the two nations. If the necessary evidence was produced, he ought to have been delivered up to justice. It was an act to which the American nation was bound by a most solemn compact. To have tried him for the murder would have been mere mockery. To have condemned and executed him, the court having no jurisdiction, would have been murder. To have acquitted and discharged him would have been a breach of faith, and a violation of national duty.

But it has been contended that, although Thomas Nash ought to have been delivered up to the British Minister, on the requisition made by him in the name of his Government, yet, the interference of the President was improper.

This, Mr. M. said, led to his second proposition, which was:

That the case was a case for Executive and not Judicial decision. He admitted implicitly the division of powers, stated by the gentleman from New York, and that it was the duty of each department to resist the encroachments of the others.

This being established, the inquiry was, to what department was the power in question allotted?

The gentleman from New York had relied on the second section of the third article of the constitution, which enumerates the cases to which the Judicial power of the United States extends, as expressly including that now under consideration. Before he examined that section, it would not be improper to notice a very material misstatement of it made in the resolutions,

offered by the gentleman from New York. By the constitution, the Judicial power of the United States is extended to all cases in law and equity, arising under the constitution, laws, and treaties of the United States; but the resolutions declare that Judicial power to extend to all questions arising under the constitution, treaties, and laws of the United States. The difference between the constitution and resolutions was material and apparent. A case in law or equity was a term well understood, and of limited signification. It was a controversy between parties which had taken a shape for judicial decision. If the Judicial power extended to every question under the constitution, it would involve almost every subject proper for Legislative discussion and decision; if, to every question under the laws and treaties of the United States, it would involve almost every subject on which the Executive could act. The division of power which the gentleman had stated, could exist no longer, and the other departments would be swallowed up by the Judiciary. But it was apparent that the resolutions had essentially misrepresented the constitution. He did not charge the gentleman from New York with intentional misrepresentation; he would not attribute to him such an artifice in any case, much less in a case where detection was so easy and so certain. Yet this substantial departure from the constitution, in resolutions affecting substantially to unite it, was not less worthy of remark for being unintentional. It manifested the course of reasoning by which the gentleman had himself been misled, and his judgment betrayed into the opinions those resolutions expressed. By extending the Judicial power to all cases in law and equity, the constitution had never been understood to confer on that department any political power whatever. To come within this description, a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process, and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit.

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A case in law or equity proper for judicial decision may arise under a treaty, where the rights of individuals acquired or secured by a treaty are to be asserted or defended in court. As under the fourth or sixth article of the treaty of peace with Great Britain, or under those articles of our late treaties with France, Prussia, and other nations, which secure to the subjects of those nations their property within the United States; or, as would be an article, which, instead of stipulating to deliver up an offender, should stipulate his punishment, provided the case was punishable by the laws and in the courts of the United States. But the Judicial power cannot extend to political compacts; as the establishment of the boundary line between the American and British dominions; the case of the late guarantee in our treaty with France, or the case of the delivery of a murderer under the twenty-seventh article of our present treaty with Britain.

The gentleman from New York has asked, triumphantly asked, what power exists in our courts to deliver up an individual to a foreign Government? Permit me, said Mr. M., but not triumphantly, to retort the question. By what authority can any court render such a judgment? What power does a court possess to seize any individual and determine that he shall be adjudged by a foreign tribunal? Surely our courts possess no such power, yet they must possess it, if this article of the treaty is to be executed by the courts.

Gentlemen have cited and relied on that clause in the constitution, which enables Congress to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; together with an act of Congress declaring the punishment of those offences; as transferring the whole subject to the courts. But that clause can never be construed to make to the Government a grant of power, which the people making it do not themselves possess. It has already been shown that the people of the United States have no jurisdiction over offences committed on board a foreign ship against a foreign nation. Of consequence, in framing a Government for themselves, they cannot have passed this jurisdiction to that Government. The law, therefore, cannot act upon the case. But this clause of the constitution cannot be considered, and need not be considered, as affecting acts which are piracy under the law of nations. As the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction, and piracy under the law of nations is of admiralty and maritime jurisdiction, punishable by every nation, the judicial power of the United States of course extends to it. On this principle the Courts of Admiralty under the Confederation took cognizance of piracy, although there was no express power in Congress to define and punish the offence.

But the extension of the judicial power of the United States to all cases of admiralty and maritime jurisdiction must necessarily be understood with some limitation. All cases of admiralty and maritime jurisdiction which, from their nature, are triable in the United States, are submitted to the jurisdiction of the courts of the United States.

There are cases of piracy by the law of nations, and cases within the legislative jurisdiction of the nation; the people of America possessed no other power over the subject, and could consequently transfer no other to their courts; and it has already been proved that a murder committed on board a foreign ship-of-war is not comprehended within this description.

The Consular Convention with France, has also been relied on, as proving the act of delivering up an individual to a foreign power to be in its nature Judicial and not Executive.

The ninth article of that Convention authorizes the Consuls and Vice Consuls of either nation to cause to be arrested all deserters from their vessel, "for which purpose the said Consuls and Vice Consuls shall address themselves to the courts, judges, and officers competent."

This article of the Convention does not, like the 27th article of the treaty with Britain, stipulate a national act, to be performed on the demand of a nation; it only authorizes a foreign Minister to cause an act to be done, and prescribes the course he is to pursue. The contract itself is, that the act shall be performed by the agency of the foreign Consul, through the medium of the courts;

but this affords no evidence that a contract of a very different nature is to be performed in the same manner.

It is said that the then President of the United States declared the incompetency of the courts, judges, and officers, to execute this contract without an act of the Legislature. But the then President made no such declaration.

He has said that some legislative provision is requisite to carry the stipulations of the Convention into full effect. This, however, is by no means declaring the incompetency of a department to perform an act stipulated by treaty, until the legislative authority shall direct its performance.

It has been contended that the conduct of the Executive on former occasions, similar to this in principle, has been such as to evince an opinion, even in that department, that the case in question is proper for the decision of the courts.

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The fact adduced to support this argument is the determination of the late President on the case of prizes made within the jurisdiction of the United States, or by privateers fitted out in their ports.

The nation was bound to deliver up those prizes in like manner as the nation is now bound to deliver up an individual demanded under the 27th article of the treaty with Britain. The duty was the same, and devolved on the same department.

In quoting the decision of the Executive on that case, the gentleman from New York has taken occasion to bestow a high encomium on the late President; and to consider his conduct as furnishing an example worthy the imitation of his successor. It must be the cause of much delight to the real friends of that great man; to those who supported his Administration while in office from a conviction of its wisdom and its virtue, to hear the unqualified praise which is now bestowed on it by those who had been supposed to possess different opinions. If the measure now under consideration shall be found, on examination, to be the same in principle with that which has been cited, by its opponents, as a fit precedent for it, then may the friends of the gentleman now in office indulge the hope, that when he, like his predecessor, shall be no more, his conduct too may be quoted as an example for the government of his successors.

The evidence relied on to prove the opinion of the then Executive on the case, consists of two letters from the Secretary of State, the one of the 29th of June, 1793, to Mr. Genet, and the other of the 16th of August, 1793, to Mr. Morris.

In the letter to Mr. Genet, the Secretary says, that the claimant having filed his libel against the ship *William*, in the Court of Admiralty, there was no power which could take the vessel out of court until it had decided against its own jurisdiction; that having so decided, the complaint is lodged with the Executive, and he asks for evidence, to enable that department to consider and decide finally on the subject.

It will be difficult to find in this letter an Executive opinion, that the case was not a case for Executive decision. The contrary is clearly avowed. It is true, that when an individual, claiming the property as his, had asserted that claim in court, the Executive acknowledges in itself a want of power to dismiss or decide upon the claim thus pending in court. But this argues no opinion of a want of power in itself to decide upon the case, if, instead of being carried before a court as an individual claim, it is brought before the Executive as a national demand. A private suit instituted by an individual, asserting his claim to property, can only be controlled by that individual. The Executive can give no direction concerning it. But a public prosecution carried on in the name of the United States can, without impropriety, be dismissed at the will of the Government. The opinion, therefore, given in this letter, is unquestionably correct; but it is certainly misunderstood, when it is considered as being an opinion that the question was not in its nature a question for Executive decision.

In the letter to Mr. Morris, the Secretary asserts the principle, that vessels taken within our jurisdiction ought to be restored, but says, it is yet unsettled whether the act of restoration is to be performed by the Executive or Judicial Department. The principle, then, according to this letter, is not submitted to the court—whether a vessel captured within a given distance of the American coast, was or was not captured within the jurisdiction of the United States, was a question not to be determined by the courts, but by the Executive. The doubt expressed is not what tribunal shall settle the principle, but what tribunal shall settle the fact. In this respect, a doubt might exist in the case of prizes, which could not exist in the case of a man. Individuals on each side claimed the property, and therefore their rights could be brought into court, and there contested as a case in law or equity. The demand of a man made by a nation stands on different principles.

Having noticed the particular letters cited by the gentleman from New York, permit me now, said Mr. M., to ask the attention of the House to the whole course of Executive conduct on this interesting subject.

It is first mentioned in a letter from the Secretary of State to Mr. Genet, of the 25th of June, 1793. In that letter, the Secretary states a consultation between himself and the Secretaries of the Treasury and War, (the President being absent,) in which (so well were they assured of the President's way of thinking in those cases) it was determined that the vessels should be detained in the custody of the Consuls, in the ports, until the Government of the United States shall be able to inquire into and decide on the fact.

In his letter of the 12th of July, 1793, the Secretary writes, the President has determined to refer the questions concerning prizes "to persons learned in the laws," and he requests that certain

vessels enumerated in the letter should not depart "until his ultimate determination shall be made known."

In his letter of the 7th of August, 1793, the Secretary informs Mr. Genet that the President considers the United States as bound "to effectuate the restoration of, or to make compensation for, prizes which shall have been made of any of the parties at war with France, subsequent to the 5th day of June last, by privateers fitted out of our ports." That it is consequently expected that Mr. Genet will cause restitution of such prizes to be made, and that the United States "will cause restitution" to be made "of all such prizes as shall be hereafter brought within their ports by any of the said privateers."

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In his letter of the 10th of November, 1793, the Secretary informs Mr. Genet, that for the purpose of obtaining testimony to ascertain the fact of capture within the jurisdiction of the United States, the Governors of the several States were requested, on receiving any such claim, immediately to notify thereof the Attorneys of their several districts, whose duty it would be to give notice "to the principal agent of both parties, and also to the Consuls of the nations interested; and to recommend to them to appoint by mutual consent arbiters to decide whether the capture was made within the jurisdiction of the United States, as stated in my letter of the 8th inst., according to whose award the Governor may proceed to deliver the vessel to the one or the other party." "If either party refuse to name arbiters, then the Attorney is to take depositions on notice, which he is to transmit for the information and decision of the President." "This prompt procedure is the more to be insisted on, as it will enable the President, by an immediate delivery of the vessel and cargo to the party having title, to prevent the injuries consequent on long delay."

In his letter of the 22d of November, 1793, the Secretary repeats, in substance, his letter of the 12th of July and 7th of August, and says that the determination to deliver up certain vessels, involved the brig Jane, of Dublin, the brig Lovely Lass, and the brig Prince William Henry. He concludes with saying: "I have it in charge to inquire of you, sir, whether these three brigs have been given up according to the determination of the President, and if they have not, to repeat the requisition that they may be given up to their former owners."

Ultimately it was settled that the fact should be investigated in the courts, but the decision was regulated by the principles established by the Executive Department.

The decision, then, on the case of vessels captured within the American jurisdiction, by privateers fitted out of the American ports, which the gentleman from New York has cited with such merited approbation; which he has declared to stand on the same principles with those which ought to have governed the case of Thomas Nash; and which deserves the more respect, because the Government of the United States was then so circumstanced as to assure us that no opinion was lightly taken up, and no resolution formed but on mature consideration; this decision, quoted as a precedent and pronounced to be right, is found, on fair and full examination, to be precisely and unequivocally the same with that which was made in the case under consideration. It is a full authority to show that, in the opinion always held by the American Government, a case like that of Thomas Nash is a case for Executive and not Judicial decision.

The clause in the constitution which declares that "the trial of all crimes, except in cases of impeachment, shall be by jury," has also been relied on as operating on the case, and transferring the decision on a demand for the delivery of an individual from the Executive to the Judicial Department.

But certainly this clause in the Constitution of the United States cannot be thought obligatory on, and for the benefit of, the whole world. It is not designed to secure the rights of the people of Europe and Asia, or to direct and control proceedings against criminals throughout the universe. It can then be designed only to guide the proceedings of our own courts, and to prescribe the mode of punishing offences committed against the Government of the United States, and to which the jurisdiction of the nation may rightfully extend.

It has already been shown that the courts of the United States were incapable of trying the crime for which Thomas Nash was delivered up to justice. The question to be determined was, not how his crime should be tried and punished, but whether he should be delivered up to a foreign tribunal, which was alone capable of trying and punishing him. A provision for the trial of crimes in the courts of the United States is clearly not a provision for the performance of a national compact for the surrender to a foreign Government of an offender against that Government.

The clause of the constitution declaring that the trial of all crimes shall be by jury, has never even been construed to extend to the trial of crimes committed in the land and naval forces of the United States. Had such a construction prevailed, it would most probably have prostrated the constitution itself, with the liberties and the independence of the nation, before the first disciplined invader who should approach our shores. Necessity would have imperiously demanded the review and amendment of so unwise a provision. If, then, this clause does not extend to offences committed in the fleets and armies of the United States, how can it be construed to extend to offences committed in the fleets and armies of Britain or of France, or of the Ottoman or Russian Empires?

The same argument applies to the observations on the seventh article of the amendments to the constitution. That article relates only to trials in the courts of the United States, and not to the performance of a contract for the delivery of a murderer not triable in those courts.

In this part of the argument, the gentleman from New York has presented a dilemma, of a very wonderful structure indeed. He says that the offence of Thomas Nash was either a crime or not a

crime. If it was a crime, the constitutional mode of punishment ought to have been observed; if it was not a crime, he ought not to have been delivered up to a foreign Government, where his punishment was inevitable.

It had escaped the observation of that gentleman, that if the murder committed by Thomas Nash was a crime, yet it was not a crime provided for by the constitution, or triable in the courts of the United States; and that if it was not a crime, yet it is the precise case in which his surrender was stipulated by treaty. Of this extraordinary dilemma, then, the gentleman from New York is, himself, perfectly at liberty to retain either horn. He has chosen to consider it as a crime, and says it has been made a crime by treaty, and is punished by sending the offender out of the country.

The gentleman is incorrect in every part of his statement. Murder on board a British frigate is not a crime created by treaty. It would have been a crime of precisely the same magnitude had the treaty never been formed. It is not punished by sending the offender out of the United States. The experience of this unfortunate criminal, who was hung and gibbeted, evinced to him that the punishment of his crime was of a much more serious nature than mere banishment from the United States.

The gentleman from Pennsylvania and the gentleman from Virginia have both contended that this was a case proper for the decision of the courts, because points of law occurred, and points of law must have been decided in its determination.

The points of law which must have been decided, are stated by the gentleman from Pennsylvania to be, first, a question whether the offence was committed within the British jurisdiction; and, secondly, whether the crime charged was comprehended within the treaty.

It is true, sir, these points of law must have occurred, and must have been decided; but it by no means follows that they could only have been decided in court. A variety of legal questions must present themselves in the performance of every part of Executive duty, but these questions are not therefore to be decided in court. Whether a patent for land shall issue or not is always a question of law, but not a question which must necessarily be carried into court. The gentleman from Pennsylvania seems to have permitted himself to have been misled by the misrepresentation of the constitution, made in the resolutions of the gentleman from New York; and, in consequence of being so misled, his observations have the appearance of endeavoring to fit the constitution to his arguments, instead of adapting his arguments to the constitution.

When the gentleman has proved that these are questions of law, and that they must have been decided by the President, he has not advanced a single step towards proving that they were improper for Executive decision. The question whether vessels captured within three miles of the American coast, or by privateers fitted out in the American ports, were legally captured or not, and whether the American Government was bound to restore them, if in its power, were questions of law; but they were questions of political law, proper to be decided, and they were decided by the Executive, and not by the courts.

The *casus fœderis* of the guarantee was a question of law, but no man could have hazarded the opinion that such a question must be carried into court, and can only be there decided. So the *casus fœderis*, under the twenty-seventh article of the treaty with Great Britain, is a question of law, but of political law. The question to be decided is, whether the particular case proposed be one in which the nation has bound itself to act, and this is a question depending on principles never submitted to courts.

If a murder should be committed within the United States, and the murderer should seek an asylum in Britain, the question whether the *casus fœderis* of the twenty-seventh article had occurred, so that his delivery ought to be demanded, would be a question of law, but no man would say it was a question which ought to be decided in the courts.

When, therefore, the gentleman from Pennsylvania has established, that in delivering up Thomas Nash, points of law were decided by the President, he has established a position which in no degree whatever aids his argument.

The case was in its nature a national demand made upon the nation. The parties were the two nations. They cannot come into court to litigate their claims, nor can a court decide on them. Of consequence, the demand is not a case for judicial cognizance.

The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations. Of consequence, the demand of a foreign nation can only be made on him.

He possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him.

He is charged to execute the laws. A treaty is declared to be a law. He must then execute a treaty, where he, and he alone, possesses the means of executing it.

The treaty, which is a law, enjoins the performance of a particular object. The person who is to perform this object is marked out by the constitution, since the person is named who conducts the foreign intercourse, and is to take care that the laws be faithfully executed. The means by which it is to be performed, the force of the nation, are in the hands of this person. Ought not this person to perform the object, although the particular mode of using the means has not been prescribed? Congress, unquestionably, may prescribe the mode, and Congress may devolve on others the whole execution of the contract; but, till this be done, it seems the duty of the Executive Department to execute the contract by any means it possesses.

The gentleman from Pennsylvania contends that, although this should be properly an Executive duty, yet it cannot be performed until Congress shall direct the mode of performance. He says that, although the jurisdiction of the courts is extended by the constitution to all cases of admiralty and maritime jurisdiction, yet if the courts had been created without any express assignment of jurisdiction, they could not have taken cognizance of cases expressly allotted to them by the constitution. The Executive, he says, can, no more than courts, supply a legislative omission.

It is not admitted that, in the case stated, courts could not have taken jurisdiction. The contrary is believed to have been the correct opinion. And although the Executive cannot supply a total Legislative omission, yet it is not admitted or believed that there is such a total omission in this case.

The treaty, stipulating that a murderer shall be delivered up to justice, is as obligatory as an act of Congress making the same declaration. If, then, there was an act of Congress in the words of the treaty, declaring that a person who had committed murder within the jurisdiction of Britain, and sought an asylum within the territory of the United States, should be delivered up by the United States, on the demand of His Britannic Majesty, and such evidence of his criminality, as would have justified his commitment for trial, had the offence been here committed; could the President, who is bound to execute the laws, have justified the refusal to deliver up the criminal, by saying, that the Legislature had totally omitted to provide for the case.

The Executive is not only the constitutional department, but seems to be the proper department to which the power in question may most wisely and most safely be confided.

The department which is intrusted with the whole foreign intercourse of the nation, with the negotiation of all its treaties, with the power of demanding a reciprocal performance of the article, which is accountable to the nation for the violation of its engagements with foreign nations, and for the consequences resulting from such violation, seems the proper department to be intrusted with the execution of a national contract like that under consideration.

If, at any time, policy may temper the strict execution of the contract, where may that political discretion be placed so safely as in the department whose duty it is to understand precisely the state of the political intercourse and connection between the United States and foreign nations, to understand the manner in which the particular stipulation is explained and performed by foreign nations, and to understand completely the state of the Union?

This department, too, independent of judicial aid, which may, perhaps, in some instances, be called in, is furnished with a great law officer, whose duty it is to understand and to advise when the *casus fœderis* occurs. And if the President should cause to be arrested under the treaty an individual who was so circumstanced as not to be properly the object of such an arrest, he may perhaps bring the question of the legality of his arrest before a judge, by a writ of habeas corpus.

It is then demonstrated, that, according to the principles of the American Government, the question whether the nation has or has not bound itself to deliver up any individual, charged with having committed murder or forgery within the jurisdiction of Britain, is a question the power to decide which rests alone with the Executive Department.

It remains to inquire whether, in exercising this power, and in performing the duty it enjoins, the President has committed an unauthorized and dangerous interference with judicial decisions.

That Thomas Nash was committed originally at the instance of the British Consul at Charleston, not for trial in the American courts, but for the purpose of being delivered up to justice in conformity with the treaty between the two nations, has been already so ably argued by the gentleman from Delaware, that nothing further can be added to that point. He would therefore, Mr. MARSHALL said, consider the case as if Nash had been delivered up instead of having been committed for trial. Admitting even this to have been the fact, the conclusions which have been drawn from it were by no means warranted.

Gentlemen had considered it as an offence against judicial authority, and a violation of judicial rights, to withdraw from their sentence a criminal against whom a prosecution had been commenced. They had treated the subject as if it was the privilege of courts to condemn to death the guilty wretch arraigned at their bar, and that to intercept the judgment was to violate the privilege. Nothing can be more incorrect than this view of the case. It is not the privilege, it is the sad duty of courts to administer criminal judgment. It is a duty to be performed at the demand of the nation, and with which the nation has a right to dispense. If judgment of death is to be pronounced, it must be at the prosecution of the nation, and the nation may at will stop that prosecution. In this respect the President expresses constitutionally the will of the nation; and may rightfully, as was done in the case at Trenton, enter a *nolle prosequi*, or direct that the criminal be prosecuted no farther. This is no interference with judicial decisions, nor any invasion of the province of a court. It is the exercise of an indubitable and a constitutional power. Had the President directed the Judge of Charleston to decide for or against his own jurisdiction, to condemn or acquit the prisoner, this would have been a dangerous interference with judicial decisions, and ought to have been resisted. But no such direction has been given, nor any such decision been required. If the President determined that Thomas Nash ought to have been delivered up to the British Government for a murder committed on board a British frigate, provided evidence of the fact was adduced, it was a question which duty obliged him to determine, and which he determined rightly. If, in consequence of this determination, he arrested the proceedings of a court on a national prosecution, he had a right to arrest and to stop them, and the exercise of this right was a necessary consequence of the determination of the principal

question. In conforming to this decision, the court has left open the question of its jurisdiction. Should another prosecution of the same sort be commenced, which should not be suspended but continued by the Executive, the case of Thomas Nash would not bind as a precedent against the jurisdiction of the court. If it should even prove that, in the opinion of the Executive, a murder committed on board a foreign fleet was not within the jurisdiction of the court, it would prove nothing more; and though this opinion might rightfully induce the Executive to exercise his power over the prosecution, yet if the prosecution was continued, it would have no influence with the court in deciding on its jurisdiction.

Taking the fact, then, even to be as the gentlemen in support of the resolutions would state it, the fact cannot avail them.

It is to be remembered, too, that in the case stated to the President, the Judge himself appears to have considered it as proper for Executive decision, and to have wished that decision. The President and Judge seem to have entertained, on this subject, the same opinion, and in consequence of the opinion of the Judge, the application was made to the President.

It has then been demonstrated—

1st. That the case of Thomas Nash, as stated to the President, was completely within the twenty-seventh article of the treaty between the United States and Great Britain.

2d. That this question was proper for Executive, and not for Judicial decision; and,

3d. That in deciding it, the President is not chargeable with an interference with judicial decisions.

After trespassing so long, Mr. MARSHALL said, on the patience of the House, in arguing what had appeared to him to be the material points growing out of the resolutions, he regretted the necessity of detaining them still longer for the purpose of noticing an observation which appeared not to be considered by the gentleman who made it as belonging to the argument.

The subject introduced by this observation, however, was so calculated to interest the public feelings, that he must be excused for stating his opinion on it.

The gentleman from Pennsylvania had said that an impressed American seaman, who should commit homicide for the purpose of liberating himself from the vessel in which he was confined, ought not to be given up as a murderer. In this, Mr. M. said, he concurred entirely with that gentleman. He believed the opinion to be unquestionably correct, as were the reasons that gentleman had given in support of it. He had never heard any American avow a contrary sentiment, nor did he believe a contrary sentiment could find a place in the bosom of an American. He could not pretend, and did not pretend to know the opinion of the Executive on this subject, because he had never heard the opinions of that department; but he felt the most perfect conviction, founded on the general conduct of the Government, that it could never surrender an impressed American to the nation which, in making the impressment, had committed a national injury.

This belief was in no degree shaken by the conduct of the Executive in this particular case.

In his own mind, it was a sufficient defence of the President from an imputation of this kind, that the fact of Thomas Nash being an impressed American, was obviously not contemplated by him in the decision he made on the principles of the case. Consequently, if a new circumstance occurred, which would essentially change the case decided by the President, the Judge ought not to have acted under that decision, but the new circumstance ought to have been stated. Satisfactory as this defence might appear, he should not resort to it, because to some it might seem a subterfuge. He defended the conduct of the President on other and still stronger ground.

The President had decided that a murder committed on board a British frigate on the high seas, was within the jurisdiction of that nation, and consequently within the twenty-seventh article of its treaty with the United States. He therefore directed Thomas Nash to be delivered to the British Minister, if satisfactory evidence of the murder should be adduced. The sufficiency of the evidence was submitted entirely to the Judge.

If Thomas Nash had committed a murder, the decision was that he should be surrendered to the British Minister; but if he had not committed a murder, he was not to be surrendered.

Had Thomas Nash been an impressed American, the homicide on board the Hermione would, most certainly, not have been a murder.

The act of impressing an American, is an act of lawless violence. The confinement on board a vessel, is a continuation of the violence, and an additional outrage. Death committed within the United States, in resisting such violence, would not have been murder, and the person giving the wound could not have been treated as a murderer. Thomas Nash was only to have been delivered up to justice on such evidence as, had the fact been committed within the United States, would have been sufficient to have induced his commitment and trial for murder. Of consequence, the decision of the President was so expressed, as to exclude the case of an impressed American liberating himself by homicide. He concluded with observing, that he had already too long availed himself of the indulgence of the House, to venture farther on that indulgence by recapitulating or reinforcing the arguments which had already been urged.

When Mr. MARSHALL had concluded, Mr. DANA rose and spoke against the resolutions.

An adjournment was then called for and carried—yeas 50, nays 48.



**SATURDAY, March 8.**

***Case of Jonathan Robbins.***

The House resumed the consideration of the report made on Thursday last, by the Committee of the whole House, to whom was referred the Message of the President of the United States, of the seventh ultimo, containing their disagreement to the motion referred to them on the twentieth ultimo; and the said motion being read, in the words following, to wit:

(See *ante*—Mr. LIVINGSTON'S resolution, February 20.)<sup>[53]</sup>

Mr. NICHOLAS spoke in answer to Mr. MARSHALL.

The question was then taken that the House do agree with the Committee of the Whole in their disagreement to the same, and resolved in the affirmative—yeas 61, nays 35, as follows:

YEAS.—Willis Alston, George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, William Cooper, William Craik, John Davenport, Franklin Davenport, Thomas T. Davis, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Imlay, James Jones, John Wilkes Kittera, Henry Lee, Silas Lee, Samuel Lyman, James Linn, John Marshall, Abraham Nott, Harrison G. Otis, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, Richard Dobbs Spaight, David Stone, Benjamin Taliaferro, George Thatcher, John Chew Thomas, Richard Thomas, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS.—Theodorus Bailey, Phanael Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, John Condit, Joseph Eggleston, Lucas Elmendorph, John Fowler, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Thomas Sumter, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Robert Williams.

A motion was made to adjourn. Mr. MACON hoped the House would sit and decide the resolution proposed by the gentleman from Delaware, so as to have done with the business, and not to enter on another week with it; however, 54 rising for the adjournment, it was carried.

**MONDAY, March 10.**

***Case of Jonathan Robbins.***

Mr. BAYARD moved that the Committee of the whole House, to whom was referred the Message of the President, relative to Thomas Nash, alias Jonathan Robbins, and a resolution submitted by himself to the House, approbating the conduct of the President, and referred to that committee, be discharged from the further consideration thereof.

A long debate arose upon this motion, in which MESSRS. RANDOLPH, DAVIS, JONES, NICHOLAS, LIVINGSTON, and EGGLESTON, spoke against it—and MESSRS. BAYARD, BIRD, OTIS, KITTERA, VARNUM, RUTLEDGE, EDMOND, SHEPARD, and H. LEE, in favor of it; when the question was taken by yeas and nays, and carried in the affirmative—yeas 62, nays 35.

**MONDAY, March 17.**

***Medal to Captain Truxton.***

Mr. PARKER observed that information had been received of a very gallant action having occurred between a frigate of the United States of 38 guns, commanded by Commodore Truxton, and a French vessel of 52 guns, which was extremely bloody, but valiant on the part of the United States commander. It was not usual to grant emoluments on account of any particular gallant action, to our officers, but to give approbation was common and consistent. In other countries, he said, monuments had been erected to commemorate such splendid victories.

As a testimonial of the regard of Congress for the officers who so bravely supported the flag of the United States, and to encourage similar acts of bravery, he would propose the following resolution:

*Resolved, by the Senate and House of Representatives of the United States in Congress assembled, That a golden medal, emblematical of the late action between the United States frigate Constellation of 38 guns, and the French ship-of-war La Vengeance of 52 guns, be purchased under the Secretary of the Navy, and be presented to Captain Thomas Truxton, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above*

engagement, wherein an example was exhibited by the captain, officers, sailors, and marines, honorable to the American name, and instructive to its rising Navy.

The resolution was ordered to lie on the table.

## **TUESDAY, March 18.**

### ***Officers and Crew of the Constellation.***

Mr. PARKER moved that the unfinished business be postponed for the purpose of taking up the resolution which he yesterday laid on the table, relative to the captain, officers, and crew of the Constellation; when

Mr. NICHOLSON said he wished it might not be taken into consideration until some official information was received upon the subject from the Secretary of the Navy, upon which resolutions can be grounded. In his opinion, the resolution of the gentleman did not go far enough. It had been said, that a young officer had voluntarily lost his life, rather than shrink from his duty, which he thought ought to be noticed. He was in favor of giving his approbation of the conduct of the officers and crew in more general terms than the resolution on the table contemplated.

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After some observations from Messrs. CHAMPLIN and HARPER, who were of the same opinion,

Mr. PARKER said, he did not suppose a doubt could exist upon this subject sufficient to require any further information than had been received through the medium of the newspapers. He had seen a letter in the possession of the Secretary of the Navy, from Captain Baker, of the Delaware, who had every opportunity of knowing the situation of the enemy's frigate, was in the same harbor, and, being a nautical man, was of course able to give a correct opinion on her then situation, and the evident marks of the bravery of her antagonist with whom she contended—this was sufficient to satisfy his mind.

If, said Mr. P., gentlemen think the resolution does not go far enough, there is no one who will more cheerfully concur in offering other testimonies of approbation, than myself. With respect to the young officer,<sup>[54]</sup> whose gallantry and good conduct had been so highly spoken of, it was his intention to have brought forward a resolution for setting up his bust in a niche of the Capitol of the city of Washington.

Mr. P. concluded with observing that he had no objection to call for information from the Secretary of the Navy, and would therefore withdraw his motion.

Mr. PARKER then moved that the House come to the following resolution, viz:

*Resolved*, That the Secretary of the Navy be requested to lay before this House any information he may possess, respecting the engagement which lately took place in the West Indies between the United States frigate Constellation and a French ship-of-war; *and, also, respecting the conduct of James Jarvis, a midshipman on board the said frigate.*

Mr. SMITH moved to strike out the words in italics, which created considerable debate; when

Mr. BIRD proposed to insert in lieu thereof, the following words: "And also upon the conduct of any officer or other person on board said frigate, who may have particularly signalized himself in the said action;" which Mr. B. supposed would meet the intention of the mover, and be less liable to objection than the words proposed to be stricken out.

Mr. PARKER having consented to the modification, the resolution was agreed to.

## **WEDNESDAY, March 19.**

### ***Military Academy, &c.***

Mr. OTIS, from the Committee of Defence, reported a bill for establishing a Military Academy, and for better organizing the corps of Engineers and Artillerists.

The bill was proceeding to be read, when Mr. OTIS suggested that as this bill contained much the same in detail as a report on the subject made by the Secretary of War, with which every gentleman was acquainted, he supposed the reading would not be necessary.

Mr. MACON said he should have no objection to its being read a first time, though he did not think it necessary; but he would give notice that it was his intention to move that the bill be rejected. He mentioned his reasons to be the expense of the measure generally, which it was an improper time to incur.

The bill having been read, he made the motion.

Mr. OTIS and Mr. CHAMPLIN answered. Mr. VARNUM supported the motion, which was at length negatived, 49 to 42; and the bill was referred to a Committee of the whole House.

## **THURSDAY, March 20.**

### ***Removal of Seat of Government.***

Mr. OTIS observed that it appeared to be the general opinion that the seat of Government would be removed to the Federal City, and that Congress would commence their next session at that place; and as some preliminary measures were necessary to be made previous thereto; and as it would be reposing too much power in the Commissioners who now act there to rely entirely on their reports; and as some measures must be reported and adopted before the end of the present session, he laid on the table the following resolution:

*"Resolved*, That a committee be appointed to consider what measures are expedient for Congress to adopt, preparatory to the removal of the seat of Government, with leave to report by bill or otherwise."

#### ***Amy Dardin's Case.***

The House went into a committee on the report of the Committee of Claims on the petition of Amy Dardin, which was that the prayer of the petitioner ought not to be granted. Being taken up in the House, the propriety and impropriety of granting it was again contended, when there appeared in favor of the report 42, against it 42. The SPEAKER decided in the affirmative, so that the claim was not admitted.

#### **FRIDAY, March 21.**

#### ***Action of the Frigate Constellation.***

The SPEAKER laid before the House a report from the Secretary of the Navy, in compliance with the instructions of the House, respecting the engagement which occurred between the frigate Constellation and a French ship-of-war. The report enclosed a letter from Captain Truxton, detailing the action, and also extracts of letters from the American Consul at Curaçoa, and one from the American agent at St. Kitts, respecting the disabled state of the French ship La Vengeur. As to any particular specimen of valor, the Secretary received no information; but that all the officers and men had acted with the most unexampled bravery and decorum was attested by the captain, whose good management was evinced by the singular success of the action. The Secretary mentions the singular bravery of James Jarvis, a Midshipman, who preferred death to quitting his post.

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On motion of Mr. H. LEE, this report, together with a resolution proposed some days since by Mr. PARKER, was referred to the Naval Committee.

#### **MONDAY, March 26.**

#### ***Medal to Captain Truxton.***

Mr. PARKER, from the Naval Committee, reported the following resolutions:

*"Resolved, by the Senate and House of Representatives of the United States, in Congress assembled*, That the President of the United States be requested to present to Captain Thomas Truxton, a golden medal, emblematical of the late action between the United States frigate Constellation, of 38 guns, and the French ship-of-war La Vengeur, of 54 guns, in testimony of the high sense entertained by Congress of his gallantry and good conduct in the above engagement, wherein an example was exhibited by the captain, officers, sailors, and marines, honorable to the American name, and instructive to its rising navy.

*"Resolved*, That the conduct of James Jarvis, a midshipman in said frigate, who gloriously preferred certain death to an abandonment of his post, is deserving of the highest praise; and that the loss of so promising an officer is a subject of national regret."

The House then proceeded to the consideration of these resolutions; the first of which being under consideration,

Mr. RANDOLPH said, that inasmuch as he could not give his assent to these resolutions, he felt impressed with the propriety of stating the reasons which would govern his vote.

It was not with any intention to detract from the deserved reputation which had been so nobly earned by the captain, officers, and crew of the Constellation; still less to withhold the well-earned applause due to that gallant youth who had sacrificed his life in the prosecution of his duty. It was to the first of these resolutions, only, that he should deny his concurrence. He should do this, unless the gentlemen of the Naval Committee should show to him that it was the duty of the commander of the Constellation to persist in the chase, and compel to action a ship of such superior force. This conduct was, in his opinion, rash; and, when the situation of the United States and France was taken into consideration, it was peculiarly unadvisable. Our Commissioners were at this time in the capital of that country negotiating peace. How did the pursuit of this ship—the forcing her into an action, which ended in the crippling of both vessels—comport with that protection which was to be afforded to our commerce by the Constellation?

Mr. R. said that his duty obliged him to act upon his own opinion; and, however singular it may appear, he should vote against the first resolution, unless the gentleman who brought it forward would make it appear that it was the duty of Captain Truxton to compel the Vengeance to come

to action, when he knew her to be of such superior force. The second resolution met his most hearty approbation.

Mr. PARKER said, what the present state of things between the two countries might be, in the opinion of his colleague, he could not say; but Mr. P. conceived it was no other than it was at the time Congress passed a bill which prescribed the conduct of our naval commanders. In that bill they were authorized to take or destroy all French armed vessels: under these orders Captain Truxton left this country, and, in obedience to instructions to that effect, he pursued and engaged this vessel, which, though of superior force, he had beaten. Had he not attacked her, it is most probable she would have proceeded against our commerce. The law having been passed by Congress, if the President of the United States had not given orders conformably thereto, he would have been subject to impeachment. He, therefore, presumed it to be his duty; and, most certainly, such orders being given to the commanders, they were bound to conform to them. Mr. P. thought that this and greater approbation ought to be expressed by Congress for conduct so brave and unprecedented. In some countries monuments had been raised, but this was unnecessary, though merited. Our naval exertions were very recent and confined, but an instance of extraordinary valor having occurred it ought to be honorably and suitably noticed.

Mr. NICHOLAS said, however he might agree with his colleague (Mr. RANDOLPH) in a desire that no conduct should be encouraged that would tend to aggravate France in the present situation of things, he could not agree with him in his present sentiments. While we were in a state of actual, though not of declared war, Mr. N. thought it was naturally to be expected that our commanders would act in their complete military character, when our ships were arrayed for battle, and power given to act up to the full rigor which the laws of honor and of war would warrant. In the conduct of the captain, as well as the crew, Mr. N. said, he saw nothing but what was extremely laudable, and highly meriting approbation.

Mr. LYON said he rose to request the division of the question on the resolutions. He was disposed to vote for the latter resolution, and not for the former.

The SPEAKER declared they would be divided, and that the question before the House was on the agreeing to the first resolution.

Mr. LYON observed that he had voted for the equipment of the three frigates under an impression that they would be employed solely for the protection of the commerce of this country: but now he found himself called upon to give thanks or praise to the commander of one of those frigates, and for what? for going out of the station assigned to him, as the most proper for the protection of the trading vessels of this country, in chase of a ship-of-war of much superior force; and for reducing the ship under his command, as well as that of his opponent, to a mere wreck. Mr. L. said he had seen nothing in the orders which had been published directing him to do this, nor did he think policy or prudence dictated the measure. Let all our naval commanders be excited to follow this example; let them play or fight each of them their vessel against a French vessel-of-war of superior force in the same way, and our naval force is crippled, while the French will scarcely feel their loss; then our commerce would be wholly at their mercy. Besides these considerations, what is there to defend that commerce, on the station left destitute by the Constellation, while she is refitting. For his part he was as glad and proud as any gentleman that our officers, and our sailors, and our marines, had behaved gallantly and done themselves and their country honor, in the late action, but he did not feel himself bound, under existing circumstances, to give distinguished praise to the conduct which produced it; he should therefore vote against the resolution.

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Mr. J. BROWN would vote for this resolution for the very reason which some gentlemen urged for voting against it. He thought the very fact of chasing a ship of superior force, and forcing her to an action which had been attended with success, was a commendable act. This to him would be the only inducement for paying so high a mark of national respect. If it had been an attack upon a vessel of inferior force, he should not think it worth notice. The objection was partly on account of the French ship being of superior force; surely this would rather be a reason why we should have vessels of greater force than we have now; therefore he hoped the worthy member would suffer that brave officer to go to sea next time with a 74-gun ship under his command, when he would doubtless bring the enemy to a good account.

The yeas and nays were called on this resolution and carried—yeas 87, nays 4, as follows:

YEAS.—Willis Alston, George Baer, Bailey Bartlett, John Bird, Phaniel Bishop, Jonathan Brace, John Brown, Robert Brown, Samuel J. Cabell, Christopher G. Champlin, William C. C. Claiborne, John Condit, William Cooper, Samuel W. Dana, John Davenport, Thomas T. Davis, John Dawson, John Dennis, George Dent, Joseph Dickson, William Edmond, Joseph Eggleston, Lucas Elmendorph, Thomas Evans, Abiel Foster, Dwight Foster, John Fowler, Jonathan Freeman, Albert Gallatin, Henry Glenn, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, William Gordon, Edwin Gray, Roger Griswold, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, James H. Imlay, James Jones, Aaron Kitchell, John Wilkes Kittera, Henry Lee, Silas Lee, Michael Leib, Samuel Lyman, James Linn, Nathaniel Macon, John Marshall, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, John Rutledge, jr., Samuel Sewall, James Sheafe, William Shepard, John Smilie, John Smith, Samuel Smith, Richard Stanford, David Stone, Benjamin Taliaferro, George Thatcher, John Chew Thomas, John Thompson, Abram

Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, Robert Williams, Lemuel Williams, and Henry Woods.

NAYS.—George Jackson, Matthew Lyon, John Randolph, and Thomas Sumter.

The other resolution was adopted *unanimously*.

## **MONDAY, March 31.**

### ***Lake Superior Copper Mines.***

The House, according to the order of the day, again resolved itself into a Committee of the whole House on the report of the committee appointed, on the 5th instant, to inquire into the expediency of authorizing the PRESIDENT OF THE UNITED STATES to appoint an agent to purchase of the Indians a tract of land on the south side of Lake Superior, which shall include the great copper bed; and, after some time spent therein, the committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be authorized to employ an agent, who shall be instructed to collect all material information relative to the copper mines on the south side of Lake Superior, and to ascertain whether the Indian title to such lands as might be required for the use of the United States, in case they should deem it expedient to work the said mines, be yet subsisting; and, if so, the terms on which the same can be extinguished: And that the said agent be instructed to make report to the President, in such time as the information he may collect may be laid before Congress at their next session.

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

## **WEDNESDAY, April 2.**

### ***Removal of the Seat of Government.***

The House then resolved itself into a committee on the bill to make further progress for the removal and accommodation of the Government of the United States.

A motion was then made to fill a blank for the accommodation of the household of the President, about which considerable conversation occurred; when Mr. RUTLEDGE moved that the committee rise, in order that time may be given for learning the amount of money wanting for this object, and because he supposed the Chairman of the committee, who was absent, might be able to give that information. The motion was afterwards withdrawn, but renewed by the SPEAKER, and at length carried.

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## **THURSDAY, April 3.**

### ***Lands given in satisfaction of judgments.***

Mr. HARPER observed that in some of the States lands were received in satisfaction of judgments, which also was the case in such places where the United States were plaintiffs. To remedy what he conceived an evil, he laid on the table the following resolution:

*"Resolved,* That a committee be appointed to inquire and report, by bill or otherwise, whether any, and what, further provisions are necessary to be made relative to the sales of real estate delivered to the United States in satisfaction of judgments against persons indebted thereto."

Three members were appointed.

## **FRIDAY, April 4.**

### ***Removal of the Seat of Government.***

The House then went into Committee of the Whole on the bill for the removal and accommodation of the Government of the United States.

Mr. HARPER proposed to amend the act so as that the sum to accommodate the household of the President of the United States with furniture, in addition to what was now in possession of the President, should not operate until after the third of March next. This he did, he said, in consequence of some constitutional doubts which he had expressed. The constitution declaring that the salary of the President should receive no addition nor diminution during his being in office. This was concurred in.

The question then was, what sum should be allowed for that purpose; \$20,000, \$15,000, and \$10,000, were severally named.

Mr. RANDOLPH, considering the principle itself unconstitutional, moved, in order to defeat the

section altogether, (it having been amended and being out of order to move its being stricken out,) to insert the sum of \$500. These different sums called forth a lengthy debate. The sum of \$20,000 was negatived—45 to 39. That of \$15,000 was carried—yeas 44, nays 42.

The bill being gone through, was ordered to be engrossed for a third reading on Monday.

## **FRIDAY, April 18.**

### ***Disputed Elections of President, &c.***

Mr. NICHOLSON called for the order of the day on the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States.

Mr. HARPER moved that it be postponed till Monday.

Mr. NICHOLSON, after expressing his abhorrence of the principles contained in the bill, then moved that it be postponed till the first Monday in December next.

MESSRS. HARPER, DANA, RUTLEDGE, and MARSHALL, opposed this motion; and Messrs. S. SMITH, GALLATIN, RANDOLPH, NICHOLSON, and NICHOLAS, supported it.

The question was taken by yeas and nays, and decided in the negative—yeas 48, nays 52.

Mr. HARPER's motion for postponement till Monday, was then agreed to—ayes 54.

## **MONDAY, April 21.**

### ***Admirals in the Navy.***

Mr. PARKER, from the Naval Committee, reported a bill for the appointment of admirals for the navy.

[This bill provides for the appointment of one Vice Admiral and four Rear Admirals, and arranges the fleet into squadrons.]

It was read a first time, and on the question for the second reading, it was carried—37 to 31. Having been read a second time, Mr. GALLATIN moved its postponement till the first Monday in December next.

The SPEAKER said the question was, whether it should be committed or not? The question for commitment was carried, 37 to 32. The question was then to make it the order of the day for the first Monday in December next.

Mr. EGGLESTON hoped it would be postponed. He said it would be agreed upon to suspend the building of the 74's for the present year; in addition to this our difference with France would most probably be soon adjusted. Another reason was, it would incur an addition of expense, which it would be improper to go into, having recently agreed to borrow \$3,500,000. He was really surprised to hear such a bill proposed; he scarcely could think his colleague sincere.

Mr. PARKER said that the building of the 74's was not suspended, but it was thought advisable not to hurry their building. He stated a number of conveniences that would attend the new arrangement; that the whole expense would not be more than \$10,000, but owing to the advantages, he believed it would be a real saving. He did not think there could be any certainty of a peace, from the revolutionary disposition of France; but even if it was certain that peace would be made with that nation, it was not certain that the combined powers would not renew their hostilities. He wished this measure to be adopted, even if it was at the expense of the army. The return of peace would render the army nugatory, except just enough for the garrisons; the whole of the army expenses, he said, was upwards of four millions, but the whole sum expended on the navy (really a more efficient defence and advantage) was little more than two millions. He wished our naval defence to be nurtured and rendered respectable, for which the squadron arrangements and appointments of suitable commanders were necessary.

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Mr. CHAMPLIN also spoke in favor of the bill, and in favor of its commitment for an earlier day.

Mr. CLAIBORNE could not think the gentleman (Mr. PARKER) sincere in his professions that the army was not necessary, when he perceived that every motion to reduce the army, which by other gentlemen was thought absolutely necessary, had as uniformly been opposed by that gentleman. Mr. C. said he did not look forward to a period when the navy as well as the army would be unnecessary. This appointment might take place at any time when there should be necessity of it; and, therefore, as it was not pretended the 74's could be built before the next session, it would then be time enough to think of voting these officers.

The SPEAKER said that it was unknown in the Parliamentary proceedings of any country that the merits of a bill were discussed on a motion for postponement; he must therefore say that any discussion on the bill was out of order, and that gentlemen must confine themselves merely on the question of the day this bill should be made the order for.

Mr. HARPER stated some of the inconveniences that must attend gentlemen who brought in, or would wish to support a bill being presented, recommending its provision by a motion to postpone; he conceived the bill a valuable one, and wished for an opportunity of endeavoring to convince the House of that fact, but he was precluded by the decision of the Chair, he must therefore beg leave to appeal from the decision.

The question was put, "Is the decision of the Chair right?" and carried—yeas 65.

Mr. SMITH said he should vote for this bill being the order for December next, but if the 74's were then ordered to proceed, he should vote for this bill, if then proposed.

The yeas and nays were taken on the question, "Shall this bill be postponed till the first Monday in December next?" and decided in the negative—yeas 44, nays 45, as follows:

YEAS.—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorph, John Fowler, Albert Gallatin, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, George Jackson, James Jones, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Abraham Nott, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Robert Williams.

NAYS.—George Baer, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Christopher G. Champlin, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Dwight Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Benjamin Huger, James H. Imlay, Henry Lee, Silas Lee, Samuel Lyman, Lewis R. Morris, Robert Page, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, John Rutledge, jun., Samuel Sewall, James Sheafe, William Shepard, George Thatcher, John Chew Thomas, Richard Thomas, Robert Waln, Lemuel Williams, and Henry Woods.

The bill was then made the order for to-morrow.

## FRIDAY, April 25.

### *Congress Library.*

Mr. DENNIS said that by the act passed the present session, further to provide for the removal and accommodation of the Government of the United States, a sum not exceeding \$5,000 was appropriated for the purpose of procuring a Library. In order to carry that provision into execution, he would move the following resolution:

"*Resolved*, That — be a committee, jointly with such committee as may be appointed on the part of the Senate, for the purpose of making out a catalogue of books, and adopting the best mode of procuring a Library, at the city of Washington; and for adopting a system of rules and regulations relative thereto."

This motion was agreed to, and MESSRS. WALN, EVANS, and POWELL, appointed.

## SATURDAY, April 26.

### *Slave Trade.*

The House resolved itself into a committee on the bill from the Senate, in addition to the act, entitled "An act prohibiting the carrying on the slave trade from the United States to any foreign place or country."

Mr. J. BROWN said, when the motion was first laid on the table, he thought it improper to prevent the citizens of the United States enjoying the benefits of a trade enjoyed by all the European nations. He really was in hopes that the good sense of the select committee would have permitted them to have seen the policy of realizing the act in question. Many members of the House, he observed, knew how the former act was passed; they knew that Congress was drilled into it by certain persons who would not take *no* for an answer. It was well known that the Abolition Society, otherwise the Society of Friends, as they were called, were very troublesome until they got that act passed. It was also well known that those people did not do much to support the Government, but that they did as much as they could to stop the measures of the Government, and particularly our defensive system, on which our national security depended.

Mr. NICHOLAS asked whether it was in order to abuse any class of citizens in this manner, and particularly since no motion was before the committee?

The CHAIRMAN said he conceived the gentleman to be in order, since he supposed he was about to make a motion affecting the principle of the bill.

Mr. BROWN resumed. He was only speaking, agreeably to his information, how this bill came originally into existence. He was certain that this nation having an act against the slave trade, did not prevent the exportation of a slave from Africa. He believed we might as well, therefore, enjoy that trade, as to leave it wholly to others. It was the law of that country to export those whom they held in slavery—who were as much slaves there as those who were slaves in this country—and with as much right. The very idea of making a law against this trade, which all other nations enjoyed, and which was allowed to be very profitable, was ill policy. He would further say that it

was wrong, when considered in a moral point of view, since, by the operation of the trade, the very people themselves much bettered their condition. It ought to be a matter of national policy, since it would bring in a good revenue to our Treasury. It was not pleasing to him, Mr. B. said, to pay an interest of 8 per cent. for our loan: rather than borrow money, he would wish to be paying off some of our old standing debt, which could be done by increasing our commerce, or rendering it free. He wished it to be free as the wind that blew—from one end of the world to the other. As he observed before, he believed not one more slave would be exported from Africa, while our merchants and our revenue would enjoy the benefit.

Mr. B. said, our distilleries and manufactories were all lying idle for want of an extended commerce. He had been well informed that on those coasts New England rum was much preferred to the best Jamaica spirits, and would fetch a better price. Why should it not be sent there, and a profitable return be made? Why should a heavy fine and imprisonment be made the penalty for carrying on a trade so advantageous?

But, he observed, if it was thought advisable that the old act should continue, he would wish it could be made to meet the purpose altogether, and prevent the system of slavery entirely, so that equal advantages might be given to all the inhabitants of the Union; without this, it would, as it ever had been, remain a great disadvantage. He therefore moved that the committee rise, in order to postpone the bill. He believed the House would be better prepared to meet it in a few days.

Mr. NICHOLAS seconded the motion, not but that he was prepared to decide on it, but that there might be opportunity given to express an opinion. He really could not understand the gentleman, when he said that our people being employed in that trade would not add nor diminish the number exported. This was certainly a wrong calculation. These people were enslaved for their masters, or to supply some foreign market. Certainly if the number of purchasers were increased, the number of slaves would be increased. Surely the gentleman would not wish them brought into the United States when he talked of their condition being improved; this was a fact, to be sure, but would it be policy so to do?

But another and an important point was touched upon—that he would wish the law to be made to meet another object, if it was determined to prohibit the trade in this country. As a Southern man, Mr. N. said, he would observe that he was placed in a most unfortunate situation, indeed, in being obliged, in common with other people of those States, to keep men in a state of slavery: but he had the consolation to inform the House, that he believed the people of the Southern States were wiping off the stain entailed upon them by their predecessors, in endeavoring to ameliorate the situation of that race of people as much as possible. This appeared to be an increasing disposition. He hoped the gentleman would have an opportunity to produce all his arguments on this subject, in his endeavors either to get the law repealed or to strengthen it, agreeably to his wish, in order that he might be satisfied that he would not find an advocate in the House.

Mr. D. FOSTER spoke against the committee rising.

Several sections of the bill were then gone through with, when the committee rose, and obtained leave to sit again.

## **MONDAY, April 28.**

### ***The Slave Trade.***

Mr. RUTLEDGE moved that the Committee of the Whole, to whom were referred the bill for preventing the carrying on the slave trade, &c., be discharged from further consideration thereof. He conceived it to be one of the most defective bills that ever was before Congress, because the object intended was in nowise provided for, or utterly impracticable.

Mr. BAYARD was of the same opinion. He had taken some pains to examine the bill, but was obliged to conclude it extremely imperfect. The objects of the former bill, and which was intended to be improved, were, to prevent the citizens of the United States having any right in vessels so employed; and also to prevent the citizens of the United States being employed on board any such vessels. He trusted that a great majority of the members of the House would be in favor of those principles, and effectually promote them. It would indeed be extremely dishonorable in a country like this, to affirm such a trade, so contrary to all those principles held dear in the United States, and which ought to be promoted. His desire was, that a bill should be constructed upon the true principles of the intent of Congress: so far he thought they might go, but no farther. To be sure, as the gentleman from Rhode Island (Mr. J. BROWN) observed, the Government could derive revenue from the encouragement of this trade, but he thought a more dishonorable item of revenue could not be established.

The committee was discharged.

Mr. BAYARD then moved that the bill should be referred to a select committee.

Mr. RUTLEDGE hoped this would not be agreed to; he was not disposed at this late day of the session to take up any new business that was not of urgency. He thought it was perfectly unnecessary to make a new act upon the subject; he believed the former act did every thing that was necessary or practicable to be done. What more could be wanted than that persons engaged in this traffic should forfeit their ships and pay a fine, besides, in many instances, imprisonment of the person offending? Surely that was all the occasion required. The different States which had heretofore imported those people into the United States had established the policy not to import



any more; but in addition to this willing restriction, the Federal Government thought proper to prevent the trade being carried on, by our ships, to those countries which did suffer their importation. This was going very far indeed, but so far it was thought proper to go, to furnish a peace-offering to those philanthropists whose urgency was great to accomplish the general destruction of the trade. However, the activity of the people of the four New England States first engaged them in this profitable traffic; their produce would bring a good price on the African coast, and why they might not enjoy the profit of it as well as the English he could not conceive. He believed it to be impossible effectually to prevent it. Some gentlemen, indeed, had talked of authorizing our cruisers to seize vessels of this kind, but, suppose they were confiscated, what was to be done with their cargoes? They could not be brought into the United States. Where could they be carried? It was not consistent with the policy of the West India Islands to suffer them to land there, since it was their practice to keep these people in bondage, and they did not want, nor could they suffer free men to inundate those colonies. He knew of no place where they could be landed but St. Domingo, and as these people would not have been of those who had procured the freedom of slaves there—were not of those who had spread devastation and murder throughout that island, it was probable they would spurn them from their shores. What then was to be done with them? Surely no gentleman would wish them to be drowned, and it would be as absurd to think of sending them back to Sierra Leone! These difficulties he thought insuperable.

Mr. WALN hoped the bill would be committed, and that the provisions of it would be made effectual to its object. As for the people of Pennsylvania, he believed he could say they were unanimously in favor of the trade being put an end to most completely; which was in nowise done by the law now in force, nor by the bill now proposed. He said it was well known, that great grievances did exist for want of the due execution of the law, and much greater than were generally known, and hence it was that no more was heard of it from the people on this subject. He had been well informed that great evasions had taken place, and that this unlawful trade was becoming more and more in use. In the last year he believed that near forty vessels entered the West Indies with this illicit species of commerce. In some parts of the United States, he had been well informed, it was become so popular, that if a vessel was seized and sold, it was impossible to get any person to bid for her, and therefore the owner was enabled to repurchase her at a very low price indeed. It would be much better to repeal the old law, and open the trade, than to suffer the law to continue when nearly a nullity. But this he believed was not the disposition of the House; he believed the House could carry the principle into effect, and he was sure that a very great majority of the American people would wish them to do it.

The motion for recommitment was carried by a very large majority, and three members appointed.

#### ***Military Academy, &c.***

Mr. EGGLESTON said, since he found the House so much disposed to prepare for the close of the session by postponing unnecessary business, he would move that the bill for establishing a Military Academy, and for the better organization of the corps of Artillerists and Engineers, be postponed till the first Monday in December next.

After some observations against the motion, by MESSRS. PARKER, CHAMPLIN, and H. LEE, and in favor of it by MESSRS. EGGLESTON and SHEPARD, it was carried—yeas 64, nays 23.

#### ***Treaty with Great Britain.***

The House went into a committee on the bill for the execution of the 27th article of the Treaty with Great Britain.

A motion of Mr. NICHOLAS was under consideration, that no person whose case was cognizable in any of our courts should be delivered up. This caused a lengthy debate; it was advocated by MESSRS. S. SMITH, NICHOLSON, and GALLATIN, and opposed by MESSRS. BAYARD, DANA, and DENNIS. It was negatived 45 to 42. After which the committee rose, obtained leave to sit again, and the House adjourned.

#### **TUESDAY, April 29.**

An engrossed bill to promote the manufacture of sheet copper within the United States, by incorporating a company for carrying on the same, was read the third time, and passed.

#### **THURSDAY, May 1.**

#### ***Appropriation for holding Indian Treaties.***

The House resolved itself into a Committee of the whole House on the report of the committee to whom was referred, on the seventh of March last, the petition of William Hill and others, and, after some time spent therein, the committee rose and reported two resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

*Resolved*, That the sum of — dollars ought to be appropriated by law to defray the expenses of such treaty or treaties as the PRESIDENT OF THE UNITED STATES may deem it expedient to hold with any nation or nations of Indians south-west of the river Ohio.

*Resolved*, That provision ought to be made by law, authorizing and enabling all persons who, under the laws of North Carolina, and in conformity to the regulations and provisions thereof, have entered, surveyed, located, or obtained, grants of any of the lands ceded by the said State to the United States, in such manner as would have vested a good title under the said State of North Carolina, if such cession had not been made, to enter upon, occupy, and possess, the same, or to remove thereto their location from such lands, the titles whereto shall not be extinguished, whenever, and as soon as the Indian title or claim to a sufficient portion of the said land shall be extinguished, under the authority of the United States; and to possess and enjoy the same in as full and ample manner as if the same had been derived from, or under, the United States.

*Ordered*, That a bill or bills be brought in, pursuant to the first resolution; and that Mr. PINCKNEY, Mr. CHAUNCEY GOODRICH, Mr. HENDERSON, Mr. NICHOLAS, and Mr. THATCHER, do prepare and bring in the same.

### **SATURDAY, May 3.**

#### ***Slave Trade.***

The House went into committee on the bill to prohibit carrying on the slave trade to any foreign country. The committee rose and reported the bill. On the question, when it should be read a third time, it was carried for to-day. On the question for its passing, a long and warm debate ensued.

Several attempts were made to postpone its passing, but to no effect. At length the question was taken—yeas 67, nays 5, as follows:

YEAS.—Willis Alston, George Baer, Theodorus Bailey, Bailey Bartlett, James A. Bayard, Phanael Bishop, Jonathan Brace, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, John Condit, William Cooper, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Joseph Eggleston, Thomas Evans, Abiel Foster, Dwight Foster, Albert Gallatin, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Robert Goodloe Harper, Thomas Hartley, Joseph Heister, William H. Hill, David Holmes, James H. Imlay, Aaron Kitchell, Silas Lee, Michael Leib, Samuel Lyman, Nathaniel Macon, Lewis R. Morris, Peter Muhlenberg, John Nicholas, Abraham Nott, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, Samuel Sewall, William Shepard, John Smilie, John Smith, David Stone, Thomas Sumter, George Thatcher, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Peleg Wadsworth, Robert Waln, and Robert Williams.

NAYS.—John Brown, George Dent, Joseph Dickson, Benjamin Huger, and John Rutledge, jr.

And the House adjourned.

### **TUESDAY, May 6.**

#### ***Additional Revenue.***

The House resolved itself into a Committee of the Whole on the further report of the Committee of Ways and Means, on the subject of the revenue; when the first resolution, laying an additional duty of twenty per centum on wines, after being amended, on motion of Mr. GRISWOLD, to read as follows, was adopted:

"*Resolved*, That it is expedient to lay an additional duty of twenty per centum on the amount of the present duty upon wines imported into the United States, and to vary the scale of duties in such manner as to comport with the plan of the Secretary of the Treasury."

The second resolution was agreed to without debate as follows:

"*Resolved*, That it is expedient to lay an additional duty of two and a half per centum ad valorem on such goods, wares, and merchandise, imported into the United States, as are now subject to a duty of ten per centum ad valorem."

The third resolution was opposed by MESSRS. HARPER and S. SMITH, and supported by Mr. GRISWOLD; after which the committee rose, and obtained leave to sit again.

### **WEDNESDAY, May 7.**

A message from the Senate informed the House, that they have concurred in the amendments of this House, to the bill relative to the slave trade with several amendments, to which they desire the concurrence of the House; also, that the Senate insist on some of their amendments disagreed to by this House, to the bill supplementary to an act for an amicable settlement of limits within the State of Georgia, and for establishing a government in the Mississippi Territory.

#### ***Additional Army.***

Mr. HARPER said, that by the terms of enlistment of the additional army, they were engaged to serve for three years, or until an amicable adjustment of the differences existing between the United States and France; from which circumstance, the President was precluded, even if he knew the preliminaries of peace to be adjusted, from disbanding it until a treaty should be actually concluded and ratified by the two Governments—whereby the troops would be kept for perhaps six months in service unnecessarily. The Navy and other parts of our defensive system, were upon a different footing. He wished the Army to be placed on a similar one, and therefore moved the following resolution:

*"Resolved*, That it is expedient to authorize the President of the United States to discharge the additional army thereof, as soon as the state of things between the United States and the French Republic will warrant the measure."

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The resolution was agreed to, and referred to the Committee of the whole House, to whom was committed the bill from the Senate, to suspend part of the act entitled "An act to augment the Army of the United States."

### ***Additional Revenue.***

The House again resolved itself into a Committee of the Whole on the further report of the Committee of Ways and Means on the subject of revenue; and the tax on drawbacks being under consideration, Mr. GRISWOLD and Mr. HARPER again spoke for and against the motion. Mr. NICHOLAS, Mr. HUGER, and Mr. RANDOLPH, also spoke against the motion; after which the question was taken and negatived, only 23 votes being in favor of it.

The third resolution, to lay an additional duty of one half per cent. per pound on brown sugar and coffee imported into the United States was opposed by Mr. GRISWOLD, who doubted much the propriety of laying an additional duty on coffee, and therefore moved to strike out that article. The motion was opposed by Mr. HARPER, and advocated by Mr. SEWALL, who was of opinion that this article was frequently smuggled, and was apprehensive it would be more so, if an additional duty were laid, and therefore would injure the revenue.

The motion was carried—yeas 38, nays 21.

The question on the resolution as amended, was, after some debate, put and carried—yeas 45, nays 28.

The fourth resolution reported, to retain two and a half per centum on all drawbacks allowed for goods re-exported from the United States, in addition to the sums heretofore directed to be retained by law, and also on the whole of the additional duty on goods imported in foreign ships or vessels, was agreed to without debate. The committee then rose, and, upon the question, Will the House concur with the committee in their agreement to the resolution laying an additional duty on sugar? the yeas and nays were called for, and taken—54 to 28.

The other resolutions, as amended, were also agreed to, and the Committee of Ways and Means directed to bring in a bill or bills conformable thereto.

## **THURSDAY, May 8.**

### ***Memory of Washington.***

Mr. H. LEE, from the select committee appointed to consider what measures it would be proper for Congress to adopt for paying suitable respect to the memory of the man first in peace, first in war, and first in the hearts of his countrymen—the deceased General WASHINGTON—made a report, recommending the adoption of the following resolutions:

*"Resolved*, That the resolution of Congress passed in the year 1783, respecting an equestrian statue of General WASHINGTON, be carried into immediate execution, and that the statue be placed in the centre of an area to be formed in front of the Capitol.

*"Resolved*, That a marble monument be erected by the United States in the Capitol at the city of Washington, in honor of General WASHINGTON, to commemorate his services, and to express the regrets of the American people for their irreparable loss.

*"Resolved*, That the President of the United States be requested to give such directions as may appear to him proper, to carry the preceding resolutions into effect; and that for the present, the sum of \$100,000 be appropriated for these purposes."

The resolutions were referred to a Committee of the whole House, and immediately taken into consideration; when

Mr. HARPER moved to amend the first resolution, by inserting that a mausoleum be erected for General WASHINGTON, in the city of Washington, instead of the statue proposed, which was carried; the other resolutions were negatived, of course.

The committee then rose, and the resolution, as amended by Mr. HARPER, was agreed to by the House, and a bill ordered to be brought in pursuant thereto.

**FRIDAY, May 9.**

***The Treasury Department.***

The House went into a committee on the act supplementary to the act entitled "An act to establish the Treasury Department."

The committee rose and reported the bill—which provided that the Secretary of the Treasury should lay before Congress, at the commencement of every session, a report on the subject of finance together with such plans for improving the revenue as may occur to him.

Mr. GALLATIN and Mr. NICHOLAS opposed the passing of the bill, on constitutional principles. They observed, that as all money bills were to originate in the House of Representatives, the Senate had no right to propose any bill by which that provision was changed; nor could the Secretary of the Treasury, upon the same ground, propose any thing that should originate any money bill. Heretofore, it had been usual, when information was wanting by the House, to call for it from that department, and the same could be done again.

It was contended by Mr. GRISWOLD and Mr. HARPER, that it was not a power to report a bill, but merely the state of our finances, which, for want of due notice, had heretofore been delayed, so as to throw all the most important business upon the close of the session, whereas, by a leisurely and mature examination, the Secretary of the Treasury would be enabled to make a timely and complete report.

The bill passed to its third reading—43 to 39.

***Memory of Washington.***

Mr. EVANS, from the committee appointed for that purpose, reported a bill for erecting a mausoleum for GEORGE WASHINGTON, in the city of Washington.

The bill provided that it should be one hundred feet square at the base, and of a proportionate height. [Pg 479]

Mr. EGGLESTON wished to hear the estimated price.

Mr. HARPER said he had an estimate from Mr. Latrobe, of Philadelphia, who was the architect employed on the Pennsylvania Bank, the estimate of which had rather been over the actual expense; the estimate was that a pyramid of one hundred feet at the bottom, with nineteen steps, having a chamber thirty feet square, made of granite, to be taken from the Potomac, with a marble sarcophagus in the centre, and four marble pillars on the outside, besides other proportionate ornaments, would amount to \$62,500. He hoped no objection would be made to the price, since it could not occur on any future occasion, as *another WASHINGTON would never die*.

Mr. NICHOLAS thought every sense of respect would be as well signified by a building of less dimensions, and it would be considerable less expense; he moved to strike out one hundred and insert sixty. After some debate, this was negatived.

The bill was then ordered to be engrossed for its third reading.

***Meeting of Congress.***

A bill was received from the Senate appointing the time and directing the place of the next meeting of Congress, which provided that the two Houses should meet at the city of Washington on the third Monday in November next.

The House went into committee thereupon, which was reported. On the question for its third reading, it was carried—yeas 32, nays 32. The SPEAKER voted in the affirmative, and it was ordered to a third reading to-morrow.

**SATURDAY, May 10.**

***Memory of Washington.***

The bill for erecting a mausoleum for GEORGE WASHINGTON, in the city of Washington, was read a third time; and upon the question, shall the bill pass?

Mr. KITCHELL called the yeas and nays upon it, and proceeded to give his reasons why he would vote against the bill. He was followed by Mr. HARPER in favor of it, and Mr. RANDOLPH against it; when the question was taken, and the bill passed—yeas 54, nays 19, as follows:

YEAS.—Willis Alston, Bailey Bartlett, James A. Bayard, Jonathan Brace, John Brown, Gabriel Christie, William C. C. Claiborne, William Craik, Samuel W. Dana, Franklin Davenport, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Thomas Evans, Abiel Foster, Albert Gallatin, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Edwin Gray, Roger Griswold, John A. Hanna, Robert Goodloe Harper, David Holmes, Benjamin Huger, James H. Imlay, James Jones, John Wilkes Kittera, Henry Lee, Silas Lee, Edward Livingston, Lewis R. Morris, Peter Muhlenberg, Abraham Nott, Robert Page, Jonas Platt, Leven Powell, John Read, John Rutledge, jun., Samuel Sewall, James Sheafe, John Smith, Samuel Smith, Richard Dobbs

Spaight, George Thatcher, John C. Thomas, Richard Thomas, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS.—Theodorus Bailey, Robert Brown, Matthew Clay, John Condit, John Davenport, George Jackson, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Anthony New, John Nicholas, John Randolph, William Shepard, John Smilie, Thomas Sumter, John Thompson, John Trigg, and Joseph B. Varnum.

### ***Next Meeting of Congress.***

The bill from the Senate appointing the time and directing the place of the next meeting of Congress, was read a third time; when

Mr. BAYARD moved that it be recommitted to a Committee of the whole House, for the purpose of altering the time of commencing the session. After some debate, the motion was negatived.

The question was then put, shall the bill pass? and resolved in the affirmative—yeas 41, nays 35. The next meeting of Congress will of course take place on the third Monday in November next.

### ***Imprisonment for Debt.***

The bill making further provision for the relief of persons imprisoned for debts due the United States, was taken up in committee, agreed to, and upon the question shall the bill be engrossed for a third reading, it passed in the affirmative—yeas 36, nays 25. The bill was subsequently read the third time and passed—yeas 39, nays 27.

[By this bill no person indebted to the United States can be discharged from prison, unless he shall have suffered two years imprisonment.]

### ***Elections of President.***

A message was received from the Senate informing the House that the Senate adhere to their disagreement to the amendments to the bill prescribing the mode of deciding disputed elections of President and Vice President of the United States, made by this House, and subsequently insisted on, Whereupon,

Mr. HARPER moved that this House do also adhere to their disagreement to recede; which was carried, and the bill, consequently, is lost.

## **MONDAY, May 12.**

On motion of Mr. NICHOLAS, the House rescinded a resolution to adjourn the two Houses this day, and a resolution was adopted that the President of the Senate and the Speaker of the House should adjourn both Houses to-morrow. The Senate amended it by proposing Wednesday. On the question of concurrence, it was carried, 40 to 24.

A message from the Senate, informed the House that the Senate agree to the resolution for postponing the time of adjournment of the two Houses, with an amendment; to which they desire the concurrence of this House.

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The House proceeded to consider the amendment proposed by the Senate to the resolution for postponing the time of adjournment: Whereupon,

*Resolved*, that this House doth agree to the said amendment.

## **WEDNESDAY, May 14.**

### ***Canadian Refugees.***

A message from the Senate informed the House that the Senate have passed a bill regulating the grants of land to the Canada and Nova Scotia refugees, with amendments.

The amendments were taken into consideration, and opposed by Mr. GALLATIN, who said the object of the Senate was to give the refugees land worth ten cents an acre, instead of good land worth one dollar per acre, as proposed by this House; rather than do this, he would give them nothing.

Mr. LIVINGSTON was of the same opinion, and hoped the House would not concur. These people had waited eighteen years, and he thought it extremely hard they should now be put off in this manner.

The amendments were unanimously rejected.

A message from the Senate informed the House that they adhered to the amendment; whereupon,

Mr. GALLATIN moved that the further consideration of the bill be postponed till the third Monday in November next, which was carried.

After receiving several messages from the PRESIDENT, notifying the signing of various bills, there appearing no further business before the House, on motion of Mr. C. GOODRICH a resolution for the

appointment of a joint committee to wait on the PRESIDENT, and inform him of the proposed recess, was adopted, and was concurred in by the Senate.

Mr. C. GOODRICH, from the Joint Committee, reported that they had performed that service, and that the PRESIDENT informed them he had no other communication to make, except his good wishes for their health and happiness, and that he wished them a pleasant journey to their respective homes.

A message having been sent to the Senate to inform them this House was ready to adjourn, after a few minutes a motion was made for that purpose, and carried; when

The SPEAKER, after taking an affectionate farewell of the members, and expressing his wish for their safe return and happiness, during the recess, adjourned the House till the third Monday in November next, to meet in the city of Washington, in the District of Columbia.

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## SIXTH CONGRESS.—SECOND SESSION.

[Pg 481]

BEGUN AT THE CITY OF WASHINGTON, NOVEMBER 17, 1800.<sup>[55]</sup>

### PROCEEDINGS IN THE SENATE.

**MONDAY, November 17, 1800.**

In pursuance of the law of the last session, the second session of the sixth Congress commenced this day, at the city of Washington, and the Senate assembled, in their Chamber, at the Capitol.

Present:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire.

DWIGHT FOSTER, from Massachusetts.

JAMES HILLHOUSE and URIAH TRACY, from Connecticut.

THEODORE FOSTER, from Rhode Island.

NATHANIEL CHIPMAN, from Vermont.

JAMES SCHUREMAN, from New Jersey.

WILLIAM HILL WELLS, from Delaware.

JOHN E. HOWARD, from Maryland.

STEPHENS THOMPSON MASON, from Virginia.

JOHN BROWN, from Kentucky.

JOSEPH ANDERSON and WILLIAM COCKE, from Tennessee.

ABRAHAM BALDWIN, from Georgia.

The number of members present not being sufficient to constitute a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

**TUESDAY, November 18.**

The number of members present not being sufficient to constitute a quorum, the Senate adjourned.

**WEDNESDAY, November 19.**

There being no quorum, the Senate adjourned.

**THURSDAY, November 20.**

There being no quorum present, the Senate adjourned.

**FRIDAY, November 21.**

TIMOTHY BLOODWORTH, from the State of North Carolina; HUMPHREY MARSHALL, from the State of Kentucky; and GOUVERNEUR MORRIS, from the State of New York, severally attended.

The credentials of DWIGHT FOSTER, appointed a Senator by the State of Massachusetts, in place of Samuel Dexter, resigned, were read, and he took his seat in the Senate.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President, *pro tempore*, as the constitution provides, and JOHN E. HOWARD was chosen.

The PRESIDENT administered the oath prescribed by law to Mr. FOSTER.

*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 JOHN E. HOWARD, President of the Senate, *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 JOHN E. HOWARD President of the Senate, *pro tempore*.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and they have appointed a committee on their part, together with such committee as the Senate may 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 that he may be pleased to make them.

*Resolved*, That the Senate concur in the resolution last recited, and that Messrs. WELLS and TRACY be the committee on the part of the Senate.

Mr. WELLS reported, from the joint committee last mentioned, that they had waited on the PRESIDENT OF THE UNITED STATES; and that he acquainted the committee that he would meet the two Houses of Congress, at 12 o'clock to-morrow, in the Senate Chamber.

## SATURDAY, November 22.

*Ordered*, That the Secretary notify the House of Representatives, that the Senate are ready to meet them in their Chamber, for the purpose of receiving the communications from the PRESIDENT OF THE UNITED STATES.

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The House of Representatives having accordingly taken the seats assigned them, the PRESIDENT OF THE UNITED STATES came into the Senate Chamber, and addressed both Houses of Congress as follows:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

Immediately after the adjournment of Congress at their last session in Philadelphia, I gave directions, in compliance with the laws, for the removal of the public offices, records, and property. These directions have been executed, and the public officers have since resided and conducted the ordinary business of the Government in this place.

I congratulate the people of the United States on the assembling of Congress at the permanent seat of their Government; and I congratulate you, gentlemen, on the prospect of a residence not to be changed. Although there is cause to apprehend that accommodations are not now so complete as might be wished, yet there is great reason to believe that this inconvenience will cease with the present session.

It would be unbecoming the Representatives of this nation to assemble, for the first time, in this solemn temple, without looking up to the Supreme Ruler of the Universe, and imploring his blessing.

May this Territory be the residence of virtue and happiness! In this city may that piety and virtue, that wisdom and magnanimity, that constancy and self-government which adorned the great character whose name it bears, be for ever held in veneration! Here, and throughout our country, may simple manners, pure morals, and true religion flourish for ever!

It is with you, gentlemen, to consider whether the local powers over the District of Columbia, vested by the constitution in the Congress of the United States, shall be immediately exercised. If, in your opinion, this important trust ought now to be executed, you cannot fail, while performing it, to take into view the future probable situation of the Territory for the happiness of which you are about to provide. You will consider it as the Capital of a great nation, advancing, with unexampled rapidity, in arts, in commerce, in wealth, and in population; and possessing, within itself, those energies and resources which, if not thrown away, or lamentably misdirected, will secure to it a long course of prosperity and self-government.

In compliance with a law of the last session of Congress, the officers and soldiers of the temporary army have been discharged. It affords real pleasure to recollect the honorable testimony they gave of the patriotic motives which brought them into the service of their country, by the readiness and regularity with which they returned to the station of private citizens.

It is, in every point of view, of such primary importance to carry the laws into prompt and faithful execution, and to render that part of the administration of justice which the constitution and laws devolve on the federal courts, as convenient to the people as may consist with their present circumstances, that I cannot omit once more to recommend to your serious consideration the judiciary system of the United States. No subject is more interesting than this to the public happiness, and to none can those improvements which may have been suggested by experience be more beneficially applied.

A Treaty of Amity and Commerce with the King of Prussia has been concluded and

ratified. The ratifications have been exchanged, and I have directed the treaty to be promulgated by proclamation.

The difficulties which suspended the execution of the sixth article of our Treaty of Amity, Commerce, and Navigation, with Great Britain, have not yet been removed. The negotiation on this subject is still pending. As it must be for the interest and honor of both nations to adjust this difference with good faith, I indulge confidently the expectation that the sincere endeavors of the Government of the United States to bring it to an amicable termination will not be disappointed.

The Envoys Extraordinary and Ministers Plenipotentiary from the United States to France were received by the First Consul with the respect due to their character; and three persons with equal powers were appointed to treat with them.<sup>[56]</sup> Although, at the date of the last official intelligence, the negotiation had not terminated, yet it is to be hoped that our efforts to effect an accommodation will at length meet with a success proportioned to the sincerity with which they have been so often repeated.

While our best endeavors for the preservation of harmony with all nations will continue to be used, the experience of the world, our own experience, admonish us of the insecurity of trusting too confidently to their success. We cannot, without committing a dangerous imprudence, abandon those measures of self-protection which are adapted to our situation, and to which, notwithstanding our pacific policy, the violence and injustice of others may again compel us to resort. While our vast extent of sea-coast, the commercial and agricultural habits of our people, the great capital they will continue to trust on the ocean, suggest the system of defence which will be most beneficial to ourselves, our distance from Europe, and our resources for maritime strength, will enable us to employ it with effect. Seasonable and systematic arrangements, so far as our resources will justify, for a navy, adapted to defensive war, and which may, in case of necessity, be quickly brought into use, seem to be as much recommended by a wise and true economy as by a just regard for our future tranquillity, for the safety of our shores, and for the protection of our property committed to the ocean.

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The present Navy of the United States, called suddenly into existence by a great national exigency, has raised us in our own esteem; and, by the protection afforded to our commerce, has effected, to the extent of our expectations, the objects for which it was created.

In connection with a navy ought to be contemplated the fortification of some of our principal seaports and harbors. A variety of considerations, which will readily suggest themselves, urge an attention to this measure of precaution. To give security to our principal ports, considerable sums have already been expended, but the works remain incomplete. It is for Congress to determine whether additional appropriations shall be made, in order to render competent to the intended purposes the fortifications which have been commenced.

The manufacture of arms within the United States still invites the attention of the national Legislature. At a considerable expense to the public this manufacture has been brought to such a state of maturity as, with continued encouragement, will supersede the necessity of future importations from foreign countries.

*Gentlemen of the House of Representatives:*

I shall direct the estimates of the appropriations necessary for the ensuing year, together with an account of the public revenue and expenditure, to a late period, to be laid before you. I observe, with much satisfaction, the product of the revenue during the present year has been more considerable than during any former equal period. This result affords conclusive evidence of the great resources of this country, and of the wisdom and efficiency of the measures which have been adopted by Congress for the protection of commerce and preservation of public credit.

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

As one of the grand community of nations, our attention is irresistibly drawn to the important scenes which surround us. If they have exhibited an uncommon portion of calamity, it is the province of humanity to deplore, and of wisdom to avoid, the causes which may have produced it. If, turning our eyes homeward, we find reason to rejoice at the prospect which presents itself; if we perceive the interior of our country prosperous, free, and happy; if all enjoy in safety, under the protection of laws emanating only from the general will, the fruits of their own labor, we ought to fortify and cling to those institutions which have been the source of such real felicity; and resist, with unabating perseverance, the progress of those dangerous innovations which may diminish their influence.

To your patriotism, gentlemen, has been confided the honorable duty of guarding the public interests; and, while the past is to your country a sure pledge that it will be faithfully discharged, permit me to assure you that your labors to promote the general happiness will receive from me the most zealous co-operation.



UNITED STATES, *Nov. 22, 1800.*

The PRESIDENT OF THE UNITED STATES having retired, the two Houses separated.

*Ordered*, That MESSRS. TRACY, MORRIS, and BALDWIN, 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.

It was further ordered that the Speech be printed for the use of the Senate.

### MONDAY, November 24.

JONATHAN DAYTON, from the State of New Jersey, attended.

Mr. TRACY, from the committee appointed to draft an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, at the opening of the session, made a report, which was read, and ordered to lie for consideration.

### TUESDAY, November 25.

WILSON CARY NICHOLAS, from the State of Virginia, attended.

The Senate took into consideration the report of the committee of the draft of an Address in answer to the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, at the opening of the session; which, being read in paragraphs, and amended, was adopted, as follows:

*To the President of the United States:*

SIR: Impressed with the important truth that the hearts of rulers and people are in the hand of the Almighty, the Senate of the United States most cordially join in your invocations for appropriate blessings upon the Government and people of this Union.

We meet you, sir, and the other branch of the national Legislature in the city which is honored by the name of our late hero and sage, the illustrious WASHINGTON, with sensations and emotions which exceed our power of description.

While we congratulate ourselves on the convention of the Legislature at the permanent seat of Government, and ardently hope that permanence and stability may be communicated as well to the Government itself as to its seat, our minds are irresistibly led to deplore the death of him who bore so honorable and efficient a part in the establishment of both. Great indeed would have been our gratification if his sum of earthly happiness had been completed by seeing the Government thus peaceably convened at this place; but we derive consolation from a belief that the moment in which we were destined to experience the loss we deplore, was fixed by that Being whose counsels cannot err; and from a hope that, since in this seat of Government, which bears his name, his earthly remains will be deposited, the members of Congress, and all who inhabit the city, with these memorials before them, will retain his virtues in lively recollection, and make his patriotism, morals, and piety, models for imitation. And permit us to add, sir, that it is not among the least of our consolations that you, who have been his companion and friend from the dawning of our national existence, and trained in the same school of exertion to effect our independence, are still preserved by a gracious Providence in health and activity to exercise the functions of Chief Magistrate.

The question whether the legal powers over the District of Columbia, vested by the constitution in the Congress of the United States, shall be immediately exercised, is of great importance, and in deliberating upon it, we shall naturally be led to weigh the attending circumstances and every probable consequence of the measures which may be proposed.

The several subjects for Legislative consideration, contained in your Speech to both Houses of Congress, shall receive from the Senate all the attention which they can give, when contemplating those objects, both in respect to their national importance, and the additional weight that is given them by your recommendation.

We deprecate, with you, sir, all spirit of innovation, from whatever quarter it may arise, which may impair the sacred bond that connects the different parts of this empire; and we trust, that, under the protection of Divine Providence, the wisdom and virtue of the citizens of the United States will deliver our national compact unimpaired to a grateful posterity.

From past experience, it is impossible for the Senate of the United States to doubt of your zealous co-operation with the Legislature in every effort to promote the general happiness and tranquillity of the Union.

Accept, sir, our warmest wishes for your health and happiness.

JOHN E. HOWARD,  
*President of the Senate, pro tempore.*

*Resolved*, That a committee be appointed to wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be convenient for him that the Address

of the Senate, in answer to his Speech to both Houses of Congress at the opening of the session, shall be presented; and that Messrs. TRACY, MORRIS, and BALDWIN, be this committee.

A message from the House of Representatives informed the Senate that the House have resolved, that two Chaplains be appointed to Congress, for the present session, one by each House, to interchange weekly; in which they desire the concurrence of the Senate.

The Senate took into consideration the resolution last mentioned; and

*Resolved*, That they do concur therein with the following amendment: after the word "Chaplains," insert "of different denominations."

### **WEDNESDAY, November 26.**

Mr. TRACY reported, from the committee yesterday appointed for the purpose, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would 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 accordingly: and the President of the Senate, in their name, presented the Address yesterday agreed to.

To which the PRESIDENT made the following reply:

*Mr. President and Gentlemen of the Senate:*

For this excellent Address, so respectful to the memory of my illustrious predecessor, which I receive from the Senate of the United States, at this time, and in this place, with peculiar satisfaction, I pray you to accept of my unfeigned acknowledgments. With you, I ardently hope, that permanence and stability will be communicated as well to the Government itself, as to its beautiful and commodious seat. With you I deplore the death of that hero and sage who bore so honorable and efficient a part in the establishment of both. Great indeed would have been my gratification, if his sum of earthly happiness had been completed by seeing the Government thus peaceably convened at this place, himself at its head. But, while we submit to the decision of Heaven, whose councils are inscrutable to us, we cannot but hope, that the members of Congress, the officers of Government, and all who inhabit the city or the country, will retain his virtues in lively recollection, and make his patriotism, morals, and piety, models for imitation.

I thank you, gentlemen, for your assurance that the several subjects for legislative consideration, recommended in my communication to both Houses, shall receive from the Senate a deliberate and candid attention.

With you, gentlemen, I sincerely deprecate all spirit of innovation which may weaken the sacred bond that connects the different parts of this nation and Government; and with you I trust, that, under the protection of Divine Providence, the wisdom and virtue of our citizens will deliver our national compact unimpaired to a free, prosperous, happy, and grateful posterity. To this end it is my fervent prayer, that, in this city, the fountains of wisdom may be always open, and the streams of eloquence for ever flow. Here may the youth of this extensive country for ever look up without disappointment, not only to the monuments and memorials of the dead, but to the examples of the living, in the members of Congress and officers of Government, for finished models of all those virtues, graces, talents, and accomplishments, which constitute the dignity of human nature, and lay the only foundation for the prosperity or duration of empires.

JOHN ADAMS.

CITY OF WASHINGTON, *Nov. 26, 1800.*

The Senate returned to their own Chamber; and the reply of the PRESIDENT OF THE UNITED STATES having been read, adjourned.

### **FRIDAY, November 28.**

THOMAS JEFFERSON, Vice President of the United States, and President of the Senate, attended.

### **MONDAY, December 1.**

JESSE FRANKLIN, from the State of North Carolina, attended.

The VICE PRESIDENT communicated a letter from JAMES LLOYD, a Senator from the State of Maryland, resigning his seat in the Senate; which was read.

### **TUESDAY, December 2.**

JACOB READ, from the State of South Carolina, and JAMES GUNN, from the State of Georgia, severally attended. [Pg 485]

### **THURSDAY, December 4.**

RAY GREENE, from the State of Rhode Island, and ELIJAH PAINE, from the State of Vermont, severally attended.

**MONDAY, December 15.**

WILLIAM HINDMAN, appointed a Senator by the Legislature of the State of Maryland, for the remainder of the term for which JAMES LLOYD was elected, produced his credentials, was qualified, and took his seat in the Senate.

**FRIDAY, December 19.**

JONATHAN MASON, appointed a Senator by the Legislature of the State of Massachusetts, in place of BENJAMIN GOODHUE, resigned, produced his credentials, was qualified, and took his seat in the Senate.

**MONDAY, January 5, 1801.**

***Mississippi Territorial Laws.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I transmit to both Houses of Congress, for their information and consideration, copies of laws enacted by the Governor and Judges of the Mississippi Territory, from the 30th of June until the 31st of December, A. D. 1799.<sup>[57]</sup>

JOHN ADAMS.

UNITED STATES, *Jan. 1, 1801.*

The Message was read and ordered to lie for consideration.

**WEDNESDAY, January 7.**

The Senate took into consideration the report of the committee to whom was referred so much of the PRESIDENT'S Speech as relates to the exercise of the local powers over the District of Columbia, vested by the constitution in the Congress of the United States; which is,

"That, by the cession of the several States of Virginia and Maryland, and the acceptance thereof by Congress, the said District has become the permanent Seat of the Government of the United States;

"That the powers of the said States to legislate within said District have wholly ceased;

"And that the sole power of legislation over the same is thereupon exclusively vested in Congress."

And, on motion to agree thereto, a motion was made for the previous question, to wit: "Shall the main question be now put?" and which passed in the negative.

The Senate resumed the second reading of the bill concerning the District of Columbia; and, after debate,

*Ordered,* That it be recommitted to the original committee, further to consider and report thereon.

**THURSDAY, January 8.**

JOHN ARMSTRONG, appointed a Senator by the Legislature of the State of New York, in place of JOHN LAURANCE, resigned, produced his credentials, was qualified, and took his seat in the Senate.

**MONDAY, January 12.**

WILLIAM BINGHAM and JAMES ROSS, from the State of Pennsylvania, severally attended.

**THURSDAY, January 15.**

Mr. NICHOLAS, from the committee on the bill to erect a mausoleum for GEORGE WASHINGTON, reported amendments; which were read, and ordered to lie for consideration.

**TUESDAY, January 20.**

The Senate proceeded to the consideration of Executive business.

**WEDNESDAY, January 21.**

The VICE PRESIDENT communicated a letter from the Commissioners of the City of Washington,

addressed to both Houses of Congress requesting the assignment of a room in the Capitol for the temporary accommodation of the Supreme Judicial Court of the United States; which was read.

*Resolved*, That the Secretary be directed to inform the Commissioners of the City of Washington that the Senate consent to the accommodation of the Supreme Court in one of the committee rooms, as proposed in their letter.

## THURSDAY, January 22.

### *Mausoleum for Washington.*

The Senate resumed the consideration of the report of the committee on the bill to erect a mausoleum for GEORGE WASHINGTON; and on motion to agree to the report, and to strike out, after the word "That," immediately following the enacting clause, the whole of the bill, for the purpose of inserting as follows:

"In testimony of the respect and gratitude of the citizens of the United States to GEORGE WASHINGTON, and for carrying into effect the resolution of Congress of the 24th day of December, 1799, to commemorate the great events of his military and political life, there shall be and hereby is appropriated a sum not exceeding — thousand dollars, to be paid out of any moneys in the Treasury of the United States, not otherwise appropriated.

"*And be it further enacted*, That — — shall be and hereby are, empowered, to fix on a plan and make all contracts and engagements for payment of moneys, not exceeding in the whole the aforesaid sum of — dollars; and to adopt all other measures necessary and proper for the due execution of this act, as to them shall seem expedient."

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And it was agreed to divide the motion, and that the question be taken on striking out, which passed in the affirmative—yeas 16, nays 12, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Langdon, Marshall, S. T. Mason, Nicholas, and Schureman.

NAYS.—Messrs. Chipman, Greene, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Tracy, and Wells.

## MONDAY, January 26.

The Senate resumed the second reading of the bill for erecting a mausoleum for GEORGE WASHINGTON; and having agreed to the amendment reported by the committee, and filled up one of the blanks,

*Ordered*, That this bill pass to third reading as amended.

## WEDNESDAY, February 4.

### *Mausoleum for Washington.*

The Senate took into consideration the amendment reported by the committee, on the bill for erecting a mausoleum for GEORGE WASHINGTON; which was agreed to.

And on the final passage of the bill as amended, the question was determined in the affirmative—yeas 20, nays 9, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Dayton, T. Foster, Dwight Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Livermore, Marshall, S. T. Mason, Nicholas, Paine, and Schureman.

NAYS.—Messrs. Bingham, Cocke, Gunn, Hindman, Latimer, J. Mason, Morris, Read, and Ross.

So it was *Resolved*, That this bill pass with amendments.

## MONDAY, February 9.

### *Counting Votes for President of the United States.*

On motion, it was

*Resolved*, That the Senate will be ready to receive the House of Representatives in the Senate Chamber on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting the votes for PRESIDENT OF THE UNITED STATES. That one person be appointed a teller on the part of the Senate, to make a list of the votes for PRESIDENT OF THE UNITED STATES, 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, which shall be entered on the journals, and if it shall appear that a choice has been made, agreeably to the constitution, such entry on the journals shall be deemed a sufficient declaration thereof.

Ordered, That the Secretary notify the House of Representatives of this resolution.

**TUESDAY, February 10.**

On motion that when the two Houses shall proceed to opening and counting the votes for PRESIDENT OF THE UNITED STATES, no person shall be admitted into the gallery, it passed in the affirmative—yeas 16, nays 10, as follows:

YEAS.—Messrs. Brown, Chipman, Dayton, T. Foster, Dwight Foster, Hillhouse, Hindman, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Cocke, Franklin, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

A message was received from the House of Representatives informing the Senate that they have passed a resolution, which the Clerk was directed to bring to the Senate.

The resolution was read, as follows:

"Resolved, That this House will attend in the Chamber of the Senate on Wednesday next, at 12 o'clock, for the purpose of being present at the opening and counting of the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES; that Messrs. RUTLEDGE and NICHOLAS be appointed tellers, to act jointly with the teller appointed on the part of the Senate, to make a list of the votes for PRESIDENT and VICE PRESIDENT OF THE UNITED STATES, 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, which shall be entered on the journals, and if it shall appear that a choice has been made, agreeably to the constitution, such entry on the journals shall be deemed a sufficient declaration thereof."

Ordered, That Mr. WELLS be a teller on the part of the Senate for the purpose expressed in the above resolution.

**WEDNESDAY, February 11.**

Ordered, That the Secretary notify the House of Representatives that the Senate is ready to meet them in the Senate Chamber, for the purpose of being present at the opening and counting the votes for PRESIDENT OF THE UNITED STATES.

The two Houses of Congress accordingly assembled in the Senate Chamber, and the certificates of the Electors of sixteen States were, by the VICE PRESIDENT, opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the VICE PRESIDENT, which was read. (For List see Table on next page.)

Whereupon the VICE PRESIDENT declared that the result of the votes, as delivered by the tellers, was that

Thomas Jefferson, of Va., had 73  
Aaron Burr, of N. Y., had 73  
John Adams, of Mass., had 65  
Chas. C. Pinckney, of S. C., had 64  
John Jay, of N. Y., had 1

STATES.	Thomas Jefferson	Aaron Burr	John Adams	Charles C. Pinckney	John Jay.
New Hampshire	-	-	6	6	
Massachusetts	-	-	16	16	
Rhode Island	-	-	4	3	1
Connecticut	-	-	9	9	
Vermont	-	-	4	4	
New York	12	12			
New Jersey	-	-	7	7	
Pennsylvania	8	8	7	7	
Delaware	-	-	3	3	
Maryland	5	5	5	5	
Virginia	21	21			
Kentucky	4	4			
North Carolina	8	8	4	4	
Tennessee	3	3			
South Carolina	8	8			
Georgia	4	4			
	—	—	—	—	—
	73	73	65	64	1

The whole number of Electors who had voted were one hundred and thirty-eight, of which number THOMAS JEFFERSON and AARON BURR had a majority; but the number of those voting for them being equal, no choice was made by the people; and that, consequently, the remaining duties

devolve on the House of Representatives.

On which, the House of Representatives repaired to their own Chamber; and the Senate adjourned.

## **MONDAY, February 16.**

### ***Public Property.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and Gentlemen of the House of Representatives:*

I wish to know the pleasure of Congress, and request their direction, concerning the disposition of the property of the United States now in my possession; whether I shall deliver it into the hands of the Heads of Departments, or of the Commissioners of the city of Washington, or of a committee of Congress, or to any other persons Congress may appoint, to be delivered into the hands of my successor, or whether I shall present it myself to the PRESIDENT OF THE UNITED STATES on the 4th of March next. Any of these modes will be agreeable to me.

JOHN ADAMS.

UNITED STATES, *Feb.* 16, 1801.

The Message was read and ordered to lie on the table.

The VICE PRESIDENT communicated a letter from JAMES SCHUREMAN, a Senator from the State of New Jersey, resigning his seat; which was read.

*Resolved*, That the VICE PRESIDENT be requested to notify the Executive of the State of New Jersey that JAMES SCHUREMAN hath resigned his seat in the Senate.

## **WEDNESDAY, February 18.**

A message from the House of Representatives informed the Senate that the House have chosen THOMAS JEFFERSON, of Virginia, President of the United States, for the term commencing on the 4th of March next.

On motion, it was

*Resolved*, That a committee be appointed, to join such committee as may be appointed on the part of the House of Representatives, to consider whether any, and, if any, what measures ought to be adopted for the further accommodation of the PRESIDENT OF THE UNITED STATES, for the term commencing the 4th day of March next, to report by bill, bills, or otherwise; and that Messrs. NICHOLAS, TRACY, and BALDWIN, be the committee on the part of the Senate.

### ***Notification of Election to Aaron Burr.***

On motion, it was

*Resolved*, That the PRESIDENT OF THE UNITED STATES be requested to cause to be transmitted to AARON BURR, Esq., of New York, Vice President elect of the United States, notification of his election to that office, and that the President of the Senate do make out and sign a certificate, in the words following, viz:

"BE IT KNOWN, That the Senate and House of Representatives of the United States of America, being convened at the city of Washington, on the second Wednesday in February, A. D. 1801, the underwritten Vice President of the United States and President of the Senate, did, in presence of said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President; whereupon it appeared that THOMAS JEFFERSON, of Virginia, and AARON BURR, of New York, had a majority of the votes of the electors and an equal number of votes; in consequence of which the House of Representatives proceeded to the choice of a President, and have this day notified to the Senate that THOMAS JEFFERSON has by them been duly chosen President: by all of which it appears that AARON BURR, Esq., of New York, is duly elected, agreeably to the constitution, Vice President of the United States of America.

"In witness thereof I have hereunto set my hand and seal, this 18th day of February, 1801.

"THOMAS JEFFERSON."

And that the President of the Senate do cause the certificate aforesaid to be laid before the PRESIDENT OF THE UNITED STATES, with this resolution.

## **MONDAY, February 23.**

Mr. PINCKNEY, a Senator for the State of South Carolina, attended.

## **THURSDAY, February 26.**

The bill to prohibit the Secretary of the Navy from carrying on any business of trade, commerce, or navigation, was read the second time, and referred to MESSRS. LANGDON, NICHOLAS, and DAYTON, to consider and report thereon. [Pg 488]

## SATURDAY, February 28.

### *Retiring of the Vice President.*

The VICE PRESIDENT addressed the Senate as follows:

*Gentlemen of the Senate:*

To give the usual opportunity of appointing a President, *pro tempore*, I now propose to retire from the chair of the Senate; and, as the time is near at hand when the relations will cease which have for some time subsisted between this honorable House and myself, I beg leave, before I withdraw, to return them my grateful thanks for all the instances of attention and respect with which they have been pleased to honor me. In the discharge of my functions here, it has been my conscientious endeavor to observe impartial justice, without regard to persons or subjects; and if I have failed of impressing this on the mind of the Senate, it will be to me a circumstance of the deepest regret. I may have erred at times—no doubt I have erred—this is the law of human nature. For honest errors, however, indulgence may be hoped.

I owe to truth and justice, at the same time, to declare, that the habits of order and decorum, which so strongly characterize the proceedings of the Senate, have rendered the umpirage of their President an office of little difficulty; that, in times and on questions which have severely tried the sensibilities of the House, calm and temperate discussion has rarely been disturbed by departures from order.

Should the support which I have received from the Senate, in the performance of my duties here, attend me into the new station to which the public will has transferred me, I shall consider it as commencing under the happiest auspices.

With these expressions of my dutiful regard to the Senate as a body, I ask leave to mingle my particular wishes for the health and happiness of the individuals who compose it, and to tender them my cordial and respectful adieu.

After which the VICE PRESIDENT retired.

Whereupon the Senate proceeded to the election of a President *pro tempore*, as the constitution provides; and JAMES HILLHOUSE was duly elected.

*Ordered*, That the Address of the VICE PRESIDENT, made this day, taking leave of the Senate, be referred to a committee, with instruction to prepare and report the draft of an Address in answer thereto; and that MESSRS. MORRIS, J. MASON, and DAYTON, be the committee.

## MONDAY, March 2.

### *Answer to the Vice President's Valedictory.*

Mr. MORRIS, from the committee appointed the 28th ultimo, on the Address of the VICE PRESIDENT, made, on his taking leave of the Senate, reported an answer thereto, which was read, as follows:

SIR: While we congratulate you on those expressions of the public will, which called you to the first office in the United States, we cannot but lament the loss of that intelligence, attention, and impartiality, with which you have presided over our deliberations. The Senate feel themselves much gratified by the sense you have been pleased to express of their support in the performance of your late duties. Be persuaded that it will never be withheld from a Chief Magistrate, who, in the exercise of his office, shall be influenced by a due regard to the honor and interests of our country.

In the confidence that your official conduct will be directed to these great objects, a confidence derived from past events, we repeat to you, sir, the assurance of our constitutional support in your future administration.

On the motion to strike out these words: "a confidence derived from past events," it passed in the negative—yeas 9, nays 19, as follows:

YEAS.—MESSRS. Chipman, Hindman, Howard, Livermore, Paine, Read, Ross, Tracy, and Wells.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Gunn, Hillhouse, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, and Pinckney.

And the report was agreed to.

*Ordered*, That the committee who drafted the answer to the Address, wait on the President elect of the United States, and present it to him.

The PRESIDENT laid before the Senate a letter from the President elect of the United States; which

was read, as follows:

/\$ WASHINGTON, *March 2, 1801.* \$/

SIR: I beg leave, through you, to inform the honorable the Senate of the United States, that I propose to take the oath which the constitution prescribes to the President of the United States, before he enters on the execution of his office, on Wednesday, the 4th instant, at 12 o'clock, in the Senate Chamber.

I have the honor to be, with the greatest respect, sir, your most obedient and most humble servant,

TH. JEFFERSON.

The PRESIDENT *pro tempore of the Senate.*

*Ordered,* That the foregoing letter be referred to Messrs. MORRIS, DAYTON, and ROSS, to report thereon.

*Ordered,* That the committee who were appointed to take into consideration the letter from the President elect of the United States, of this day, be discharged.

A motion was made as follows:

The President elect of the United States having informed the Senate that he proposes to take the oath which the constitution prescribes to the President of the United States before he enters on the execution of his office, on Wednesday, the 4th instant, at 12 o'clock, in the Senate Chamber:

*Ordered,* That the Secretary communicate that information to the House of Representatives; that seats be provided for such members of the House of Representatives and such of the public Ministers as may think proper to attend; and that the gallery be opened to the citizens of the United States.

And the motion was agreed to.

**TUESDAY, March 3.**

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***Mausoleum for Washington.***

The Senate took into consideration the amendments to the amendments on the bill to erect a mausoleum for GEORGE WASHINGTON; and on motion to postpone the further consideration of this bill until the first Monday in December next, it passed in the affirmative—yeas 14, nays 13, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Brown, Cocke, Gunn, Hindman, J. Mason, Morris, Pinckney, Read, Ross, Tracy, and Wells.

NAYS.—Messrs. Bloodworth, Chipman, Dayton, T. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Livermore, Marshall, Nicholas, and Paine.

The bill to prohibit the Secretary of the Navy from being concerned in trade or commerce, was read the third time and passed.

Mr. NICHOLAS, from the committee on the bill providing for a Naval Peace Establishment, reported amendments, which, being agreed to, the bill was read the third time by unanimous consent, and passed.

Mr. MORRIS, from the committee appointed to wait on the President elect of the United States, and present him with the answer of the Senate to his Address on taking leave, communicated his reply, which was read as follows:

GENTLEMEN: I receive with due sensibility the congratulations of the Senate on being called to the first Executive office of our Government; and I accept, with great satisfaction, their assurances of support in whatever regards the honor and interest of our country. Knowing no other object in the discharge of my public duties, their confidence in my future conduct, derived from past events, shall not be disappointed, so far as my judgment may enable me to discern those objects.

The approbation they are so good as to express of my conduct in the chair of the Senate, is highly gratifying to me; and I pray them to accept my humble thanks for these declarations of it.

TH. JEFFERSON.

MARCH, 3, 1801.

**TUESDAY EVENING, 6 o'clock.**

AARON OGDEN, appointed a Senator by the Legislature of the State of New Jersey, in place of James Schureman, resigned, produced his credentials, was qualified, and took his seat in the Senate.

***Adjournment.***

A message from the House of Representatives informed the Senate that the House concur in the



resolution of the Senate appointing a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed adjournment of the two Houses of Congress, and have appointed a committee on their part. And that the House of Representatives, having completed the business before them, are about to adjourn without day.

Mr. READ reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES and that he replied, that he had nothing further to communicate to Congress, except his best wishes for the health and happiness of its members respectively.

The Senate then adjourned without day.

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## SPECIAL SESSION.

WEDNESDAY, March 4, 1801.

*To the Senators of the United States, respectively:*

SIR: It appearing to me proper and necessary for the public service, that the Senate of the United States should be convened on Wednesday the 4th of March next, you are desired to attend in the Chamber of the Senate on that day, at 10 o'clock in the forenoon, to receive and act upon any communications which the President of the United States may then lay before you touching their interests, and to do and consider all other things which may be proper and necessary for the public service, for the Senate to do and consider.

JOHN ADAMS,  
*President of the United States.*

JANUARY 30, 1801.

In conformity to the summons from the PRESIDENT OF THE UNITED STATES above recited, the Senate assembled in their Chamber.

PRESENT:

AARON BURR, Vice President of the United States, and President of the Senate.

SAMUEL LIVERMORE, and JAMES SHEAFE, from New Hampshire.

DWIGHT FOSTER, and JONATHAN MASON, from Massachusetts.

THEODORE FOSTER and RAY GREENE, from Rhode Island.

URIAH TRACY and JAMES HILLHOUSE, from Connecticut.

NATHANIEL CHIPMAN, from Vermont.

GOVERNEUR MORRIS and JOHN ARMSTRONG, from New York.

JONATHAN DAYTON and AARON OGDEN, from New Jersey.

JAMES ROSS and PETER MUHLENBERG, from Pennsylvania.

WILLIAM HILL WELLS and SAMUEL WHITE, from Delaware.

JOHN E. HOWARD, from Maryland.

STEVENS T. MASON and WILSON CARY NICHOLAS, from Virginia.

JOHN BROWN, from Kentucky.

JESSE FRANKLIN and DAVID STONE, from North Carolina.

JOSEPH ANDERSON and WILLIAM COCKE, from Tennessee.

CHARLES PINCKNEY, from South Carolina.

ABRAHAM BALDWIN, from Georgia.

Mr. HILLHOUSE administered the oath of office to the VICE PRESIDENT, who took the chair, and the credentials of the following members were read:

Of Mr. ARMSTRONG, Mr. MUHLENBERG, Mr. SHEAFE, Mr. STONE, Mr. TRACY, and Mr. WHITE.

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And the oath of office was administered to Mr. ARMSTRONG, Mr. MUHLENBERG, Mr. SHEAFE, Mr. STONE, and Mr. WHITE, by the VICE PRESIDENT.

Exception being taken to the credentials of the Hon. Mr. TRACY, a Senator from the State of Connecticut, a debate ensued; and, on motion that he be admitted to take the oath required by the constitution, it passed in the affirmative—yeas 13, nays 10, as follows:

YEAS.—Messrs. Chipman, Dayton, Dwight Foster, Hillhouse, Howard, Livermore, J. Mason, Morris, Ogden, Ross, Sheafe, Wells, and White.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Brown, Cocke, S. T. Mason, Muhlenberg, Nicholas, Pinckney, and Stone.

And the oath was accordingly administered to Mr. TRACY by the VICE PRESIDENT.

The PRESIDENT OF THE UNITED STATES, attended by the Heads of Departments, the Marshal of the

District, his officers and other gentlemen, came into the Senate Chamber and took his seat in the chair usually occupied by the VICE PRESIDENT. The VICE PRESIDENT took a separate seat on the right of the PRESIDENT OF THE UNITED STATES, and the Chief Justice of the United States on the left. After a short pause, the PRESIDENT OF THE UNITED STATES rose, and addressed the audience as follows:

*Friends and fellow-citizens:*

Called upon to undertake the duties of the first Executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look towards me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge, and the weakness of my powers, so justly inspire. A rising nation spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye; when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes, of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly indeed should I despair, did not the presence of many whom I here see remind me, that, in the other high authorities provided by our constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the constitution, all will of course arrange themselves under the will of the law, and unite in common efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression. Let us then, fellow-citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which, liberty, and even life itself, are but dreary things. And let us reflect, that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance, as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans: we are all Federalists. If there be any among us who would wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know indeed that some honest men fear that a Republican Government cannot be strong; that this Government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a Government which has so far kept us free and firm, on the theoretic and visionary fear that this Government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the form of kings to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles; our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which, by all its dispensations, proves that it delights in the happiness of man here and

his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend every thing dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political: peace, commerce, and honest friendship with all nations, entangling alliances with none: the support of the State Governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies: the preservation of the General Government in its whole constitutional vigor, as the sheet-anchor of our peace at home, and safety abroad: a jealous care of the right of election by the people; a mild and safe corrective of abuses which are lopped by the sword of revolution, where peaceable remedies are unprovided: absolute acquiescence in the decisions of the majority, the vital principle of Republics, from which is no appeal but to force, the vital principle and immediate parent of despotism: a well-disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them: the supremacy of the civil over the military authority—economy in the public expense, that labor may be lightly burdened: the honest payment of our debts, and sacred preservation of the public faith: encouragement of agriculture, and of commerce as its handmaid: the diffusion of information, and arraignment of all abuses at the bar of the public reason: freedom of religion, freedom of the press, and freedom of person, under the protection of the habeas corpus; and trial by juries impartially selected. These principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages, and blood of our heroes, have been devoted to their attainment: they should be the creed of our political faith; the text of civic instruction; the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps, and to regain the road which alone leads to peace, liberty, and safety.

I repair then, fellow-citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not, if seen in all its parts. The approbation implied by your suffrage is a great consolation to me for the past; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

The oath of office was then administered to him by the Chief Justice of the United States. After which the PRESIDENT OF THE UNITED STATES retired.

The Senate then adjourned till to-morrow.

### **THURSDAY, March 5.**

WILLIAM HINDMAN, appointed a Senator by the State of Maryland, produced his credentials, and the oath of office was administered to him by the VICE PRESIDENT.

*Ordered*, That Messrs. NICHOLAS and BALDWIN be a committee to wait on the PRESIDENT OF THE UNITED STATES and notify him that the Senate is assembled and ready to receive any communications which he may be pleased to make to them.

The VICE PRESIDENT communicated a letter from RAY GREENE, a Senator from the State of Rhode

Island, resigning his seat; which was read.

*Resolved*, That the VICE PRESIDENT be requested to notify to the Executive of the State of Rhode Island, that RAY GREENE hath resigned his seat in the Senate.

Mr. NICHOLAS reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES and that he had informed the committee that he would immediately lay a Message before the Senate. The Message was received, containing nominations to fill Executive offices; which, after being considered,

*Ordered*, That Messrs. NICHOLAS and BALDWIN be a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him, that, unless he has any further communication to make, the Senate are ready to adjourn.

Mr. NICHOLAS reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he had informed them that he had no further communications to make to the Senate.

Whereupon, the VICE PRESIDENT adjourned the Senate without day.

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## PROCEEDINGS IN THE SENATE,

[Pg 492]

### IN SECRET SESSION, WHICH TOOK PLACE ON THE RATIFICATION OF THE CONVENTION WITH THE FRENCH REPUBLIC

**TUESDAY, December 16, 1800.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

I transmit to the Senate, for their consideration and decision, a convention, both in English and French, between the United States of America and the French Republic, signed at Paris, on the thirtieth day of September last, by the respective Plenipotentiaries of the two Powers. I also transmit to the Senate, three manuscript volumes, containing the journal of our Envoys.

JOHN ADAMS.

UNITED STATES, *Dec. 15, 1800.*

The Message and convention were read; and after progress in reading the other papers accompanying the Message,

*Ordered*, That the further reading thereof be postponed.

**FRIDAY, December 19.**

The Senate proceeded to consider the motion, made yesterday, that the PRESIDENT OF THE UNITED STATES be requested to lay before the Senate the instructions given to our late Commissioners to the French Republic; which, being amended, was adopted, as follows:

*Resolved*, That the PRESIDENT OF THE UNITED STATES be requested to lay before the Senate the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

**MONDAY, December 22.**

The following Message was received from the PRESIDENT OF THE UNITED STATES.

*Gentlemen of the Senate:*

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

It is my request to the Senate that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all the use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, *Dec. 22, 1800.*

On motion,

*Resolved*, That all confidential communications made by the PRESIDENT OF THE UNITED STATES to the Senate, shall be, by the members thereof, kept inviolably secret; and that all treaties which may hereafter be laid before the Senate, shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy.

## THURSDAY, January 8, 1801.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France.

And the second article having been debated, a question was moved thereon, to wit: "Will the Senate advise and consent to the ratification of this article?"

And the yeas and nays being taken, are as follows—yeas 11, nays 16:

YEAS.—Messrs. Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, S. T. Mason, Nicholas, and Paine.

NAYS.—Messrs. Armstrong, Chipman, Dayton, D. Foster, Gunn, Hillhouse, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Read, Schureman, Tracy, and Wells.

So it passed in the negative.

And the third article being under consideration, a question was moved and put, "Will the Senate advise and consent to the ratification of this article?"

And the yeas and nays being taken, are as follows—yeas 12, nays 15:

YEAS.—Messrs. Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Gunn, Langdon, S. T. Mason, and Nicholas.

NAYS.—Messrs. Chipman, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Schureman, Tracy, and Wells.

So it passed in the negative.

The Senate proceeded in the consideration of the convention, so far as the fourteenth article; and, after debate,

*Ordered*, That the further consideration thereof be postponed.

## FRIDAY, January 9.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France.

On motion, to advise and consent to the adoption of an additional article, to wit:

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"It is further agreed, between the said contracting parties, that nothing in this treaty contained, shall be construed or operate contrary to former and existing treaties with other States or sovereignties."

And, on the question, "Will the Senate advise and consent to the adoption of this article?" it passed unanimously in the affirmative—yeas 27, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, D. Foster, Franklin, Greene, Gunn, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

On motion, to advise and consent to the adoption of the following additional article, to wit:

"The present convention shall be in full force during the term of — years, to be computed from the time of the exchange of the ratifications."

And, after debate,

*Ordered*, That the further consideration thereof be postponed.

## MONDAY, January 12.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France; and

The motion made on the 9th instant, being amended as follows:

The present convention shall be in full force until two years, to be computed from the day of the signature of the preliminary or other articles of peace, which shall conclude the war in which the French nation is now engaged, or for a term not exceeding — years, to be computed from the time of the exchange of the ratifications, whichever event shall first happen.

On the question, "Will the Senate advise and consent to the adoption of this article?" it was determined in the affirmative—yeas 25, nay 1, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Hindman, Howard, Latimer, Livermore, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

NAY.—Mr. Langdon.

The Senate resumed the consideration of the convention made on behalf of the United States with the Republic of France: Whereupon,

The VICE PRESIDENT reported to the House, that the Senate, as in a Committee of the Whole, had had under their consideration the convention, and had gone through the same, and had agreed to sundry modifications, which he proceeded to state to the House, and again to put questions thereon, severally, for confirmation, as follows:

On the question, whether the Senate would advise and consent to the ratification of the second article of the convention? it passed in the negative—yeas 10, nays 15, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bloodworth, Cocke, T. Foster, Franklin, Langdon, Marshall, Nicholas, and Paine.

NAYS.—Messrs. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

On the question whether the Senate would advise and consent to the ratification of the third article of the convention? a motion was made to amend the article, by adding to the end thereof, these words, "or paid for." Whereupon,

A motion was made to amend the amendment by adding thereto the following words: "And so likewise, the merchant ships and vessels which have been taken, and definitively condemned on the one part and the other, shall be restored or paid for."

On the question to agree to the amendment to the amendment, it passed in the negative—yeas 8, nays 20, as follows:

YEAS.—Messrs. D. Foster, Hillhouse, Howard, Latimer, Livermore, Read, Tracy, and Wells.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, Franklin, Langdon, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Ross, and Schureman.

So the amendment to the amendment was lost.

On the question to agree to the original amendment, to wit: to add the words "or paid for;" it passed in the negative—yeas 7, nays 21, as follows:

YEAS.—Messrs. Anderson, Armstrong, Brown, Baldwin, Cocke, S. T. Mason, and Nicholas.

NAYS.—Messrs. Bingham, Bloodworth, Chipman, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Howard, Langdon, Latimer, Livermore, Marshall, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

So the amendment was lost.

On the question, whether the Senate would advise and consent to the ratification of the third article? it passed in the negative—yeas 13, nays 16, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Marshall, S. T. Mason, and Nicholas.

NAYS.—Messrs. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

On the question, whether the Senate would advise and consent to the adoption of the first additional article, agreed to as in Committee of the Whole, on the 9th instant? it passed unanimously in the affirmative—yeas 28, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

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On motion to fill the blank in the second additional article, agreed to as in Committee of the Whole, with the words, "ten years;" it passed in the negative—yeas 9, nays 19, as follows:

YEAS.—Messrs. Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Langdon, S. T. Mason, and Nicholas.

NAYS.—Messrs. Anderson, Armstrong, Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

On motion to fill the blank with the words "eight years," it passed unanimously in the affirmative—yeas 28, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

On motion to amend the second additional article agreed to as in Committee of the Whole, by striking out these words, "until two years, to be computed from the day of the signature of the

preliminary or other articles of peace, which shall conclude the war in which the French nation is now engaged."

And, on the question, "Shall these words stand?" it passed in the negative—yeas 4, nays 23, as follows:

YEAS.—Messrs. Livermore, Paine, Read, and Tracy.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Schureman, and Wells.

And the article having been further amended, by unanimous consent, to read as follows:

"The present convention shall be in full force for the term of eight years, to be computed from the time of the exchange of the ratifications."

On the question, whether the Senate would advise and consent to the said additional article, as amended? it passed in the affirmative—yeas 26, nay 1, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Hillhouse, Howard, Langdon, Latimer, Marshall, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Schureman, Tracy, and Wells.

NAY.—Mr. Livermore.

*Ordered*, That Mr. MORRIS, Mr. NICHOLAS, and Mr. DAYTON, be a committee to reduce the several votes on this treaty into the form of a ratification.

### WEDNESDAY, January 21.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

In compliance with your request, signified in your resolution of the twentieth day of this month, I transmit you a report, made to me by the Secretary of State, on the same day; a letter of our late Envoys to him on the 4th of October last; an extract of a letter from our Minister Plenipotentiary in London, to him, of the 22d of November last; and an extract of another letter from the Minister to the Secretary, of the 31st of October last.

The reasoning in the letter of our late Envoys to France is so fully supported by the writers on the law of nations, particularly by Vattel, as well as by his great masters, Grotius and Puffendorf, that nothing is left to be desired to settle the point, that if there be a collision between two treaties, made with two different powers, the more ancient has the advantage; for no engagement contrary to it can be entered into in the treaty afterwards made; and if this last be found, in any case, incompatible with the more ancient one, its execution is considered as impossible, because the person promising had not the power of acting contrary to his antecedent engagement. Although our right is very clear to negotiate treaties according to our own ideas of right and justice, honor and good faith, yet it must always be a satisfaction to know that the judgment of other nations with whom we have connection, coincides with ours, and that we have no reason to apprehend that any disagreeable questions and discussions are likely to arise. The letters from Mr. King will, therefore, be read by the Senate, with particular satisfaction.

The inconveniences to public officers and the mischiefs to the public, arising from the publication of the despatches of Ministers abroad, are so numerous, and so obvious, that I request of the Senate that these papers, especially the letters from Mr. King, be considered in close confidence.

JOHN ADAMS.

UNITED STATES, *Jan. 21, 1801.*

The Message and papers were read, and ordered to lie for consideration.

The Senate resumed the consideration of the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification, together with the motion made yesterday thereon, to wit: to amend the proviso, by inserting after the word "third," the words "and nineteenth." And, on the question, to agree to the insertion of the words, it was determined in the negative—yeas 6, nays 22, as follows:

YEAS.—Messrs. Bingham, Hillhouse, Read, Ross, Tracy, and Wells.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, and Schureman.

*Ordered*, That the further consideration of the convention, and the report of the committee thereon, be postponed until Friday next.

The Senate resumed the consideration of the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the Republic of France, into the form of a ratification, which report is as follows:

*Resolved by the Senate of the United States, (two-thirds of the Senators present concurring therein,)* That they do consent to and advise the ratification of the convention between the French Republic and the United States of America, made at Paris the eighth day of Vendemaire, of the ninth year of the French Republic, the thirtieth day of September, anno Domini eighteen hundred: *Provided*, The second and third articles be expunged, and that the following articles be added or inserted:

1st. It is understood that nothing in this convention shall be so construed as to operate contrary to any former and existing treaties between either of the parties and any other State or Sovereign.

2d. It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications.

Whereupon a motion was made to strike out the whole of the proviso; on which it was agreed to divide the question into four parts, viz:

1st. Whether so much as provides that the second article shall be expunged, shall stand?

2d. Whether so much as provides that the third article be expunged, shall stand?

3d. Whether that part shall stand which restrains it from operating against former treaties?

4th. Whether that part shall stand which provides a limitation of time to its duration?

And, on the question on the first division, to wit: Whether so much as provides that the second article shall be expunged, shall stand? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 17, nays 13, as follows:

YEAS.—MESSRS. Armstrong, Bingham, Chipman, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And on the question on the second division, to wit: Whether so much as provides that the third article shall be expunged, shall stand? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 16, nays 17, as follows:

YEAS.—MESSRS. Bingham, Chipman, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And, on the question on the third division, to wit: Whether that part shall stand which restrains it from operating against former treaties? it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 17, nays 13, as follows:

YEAS.—MESSRS. Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Langdon, Livermore, Marshall, S. T. Mason, and Nicholas.

And, on the question on the fourth division, to wit: Whether that part shall stand which provides a limitation of time to its duration? it was determined in the affirmative—yeas 24, nays 6, as follows:

YEAS.—MESSRS. Anderson, Armstrong, Bingham, Bloodworth, Chipman, Cocke, Dayton, D. Foster, Franklin, Greene, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAYS.—Messrs. Baldwin, Brown, T. Foster, Marshall, S. T. Mason, and Nicholas.

And, on the question to agree to the report of the committee, as amended, it was determined in the negative, two-thirds of the Senators present not agreeing thereto—yeas 16, nays 14, as follows:

YEAS.—MESSRS. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, T. Foster, Franklin, Greene, Langdon, Livermore, Marshall, S. T. Mason, Nicholas, and Paine.



NAYS.—Messrs. Bingham, Dayton, D. Foster, Hillhouse, Hindman, Howard, Latimer, J. Mason, Morris, Read, Ross, Schureman, Tracy, and Wells.

### TUESDAY, February 3.

On motion, it was agreed to reconsider the vote passed the 23d of January, on the report of the committee appointed to reduce the several votes on the convention made on behalf of the United States with the French Republic, into the form of a ratification.

On motion, it was agreed to reconsider the first division of the report, to wit:

"Whether so much as provides that the second article shall be expunged, shall stand?"

And, on the question to agree to this part of the report, it passed in the affirmative—yeas 30, nay 1, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bingham, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, D. Foster, Franklin, Greene, Gunn, Hillhouse, Hindman, Howard, Langdon, Latimer, Livermore, S. T. Mason, J. Mason, Morris, Nicholas, Paine, Read, Ross, Schureman, Tracy, and Wells.

NAY.—Mr. Marshall.

On motion, it was agreed to reconsider the vote of the 23d of January, on the second division of the report, to wit:

"Whether so much as provides that the third article shall be expunged, shall stand?"

And, on the question to agree thereto, it passed in the negative, two-thirds of the Senators present not agreeing thereto—yeas 18, nays 13, as follows:

YEAS.—Messrs. Bingham, Chipman, Dayton, D. Foster, Greene, Hillhouse, Hindman, Howard, Latimer, Livermore, J. Mason, Morris, Paine, Read, Ross, Schureman, Tracy, and Wells.

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NAYS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Cocke, T. Foster, Franklin, Gunn, Langdon, Marshall, S. T. Mason, and Nicholas.

On the question to agree to the ratification, as follows:

*Resolved by the Senate of the United States, (two-thirds of the Senators present concurring therein,) That they do consent to, and advise the ratification of the convention between the French Republic and the United States of America, made at Paris, the eighth day of Vendemaire, of the ninth year of the French Republic, the thirtieth day of September, anno Domini, eighteen hundred: Provided, The second article be expunged, and that the following article be added or inserted:*

It is agreed, that the present convention shall be in force for the term of eight years, from the time of the exchange of the ratifications.

It passed in the affirmative—yeas 22, nays 9, as follows:

YEAS.—Messrs. Anderson, Armstrong, Baldwin, Bloodworth, Brown, Chipman, Cocke, Dayton, T. Foster, Franklin, Greene, Gunn, Hindman, Howard, Langdon, Latimer, Livermore, Marshall, S. T. Mason, Nicholas, Paine, and Schureman.

NAYS.—Messrs. Bingham, D. Foster, Hillhouse, J. Mason, Morris, Read, Ross, Tracy, and Wells.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

### FRIDAY, February 20.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

I request of the Senate, that the letter and journal of our late Envoys to France, and the copy of their instructions, and other documents relative to that negotiation, may be returned to me, or to the office of State.

JOHN ADAMS.

UNITED STATES, *Feb. 20, 1801.*

The Message was read: Whereupon,

*Ordered*, That the papers specified in the Message of the PRESIDENT OF THE UNITED STATES, of this day, be returned to him.

# PROCEEDINGS AND DEBATES

IN

## THE HOUSE OF REPRESENTATIVES.

**MONDAY, November 17, 1800.**

This being the day appointed by law for the commencement of the second session of the sixth Congress, the following members of the House of Representatives appeared, and took their seats in the House, to wit:

*From New Hampshire.*—ABIEL FOSTER, and JONATHAN FREEMAN.

*From Massachusetts.*—WILLIAM SHEPARD, JNO. READ, JOSEPH B. VARNUM, THEODORE SEDGWICK, (*Speaker*), PELEG WADSWORTH, SILAS LEE, and LEMUEL WILLIAMS.

*From Connecticut.*—JOHN DAVENPORT.

*From New York.*—JOHN SMITH, PHILIP VAN CORTLANDT, JONAS PLATT, HENRY GLEN, JOHN THOMPSON, and THEODORUS BAILEY.

*From Pennsylvania.*—MICHAEL LEIB, RICHARD THOMAS, JOSEPH HEISTER, ROBERT BROWN, PETER MUHLENBERG, HENRY WOODS, and JOHN SMILIE.

*From Maryland.*—GEORGE DENT, GEO. BAER, WILLIAM CRAIK, GABRIEL CHRISTIE, JOHN C. THOMAS, and JOSEPH H. NICHOLSON.

*From Virginia.*—LEVEN POWELL, JOHN NICHOLAS, ROBERT PAGE, JOHN DAWSON, ANTHONY NEW, GEORGE JACKSON, and DAVID HOLMES.

*From North Carolina.*—NATHANIEL MACON, RICHARD STANFORD, and WILLIS ALSTON.

*From South Carolina.*—THOMAS SUMTER, and BENJAMIN HUGER.

*From Tennessee.*—WILLIAM C. C. CLAIBORNE.

A new member, to wit, JOHN C. SMITH, returned to serve as a member of this House, from the State of Connecticut, in the room of Jonathan Brace, who has resigned his seat, appeared and produced his credentials.

The SPEAKER observed that it had heretofore been the invariable practice of the House to admit new members to take their seats previously to being sworn, though the constitution directed directly the reverse. As there was a new member present, he suggested the propriety of administering the oath to him before he took his seat.

Mr. MACON thought such a step premature. He was of opinion that no inconvenience would arise from delaying to administer the oath until a House was formed, and he thought great caution should attend an innovation opposed to all precedent.

Mr. NICHOLAS asked whether it had heretofore been usual, in the case of a new House, to swear the members before the choice of a Speaker?

The SPEAKER replied that it had not.

Mr. NICHOLAS said, that though, on first thought, he was favorable to administering the oath at the present time, yet this precedent inclined him to think such a step improper.

The SPEAKER waived the question.

The members present not being sufficient to form a quorum, the SPEAKER adjourned the body till to-morrow.

**TUESDAY, November 18.**

Several other members, to wit: from Connecticut, ELIZUR GOODRICH, WILLIAM EDMOND, and ROGER GRISWOLD; from New York, WILLIAM COOPER and LUCAS ELMENDORPH; from New Jersey, JAMES H. IMLAY and FRANKLIN DAVENPORT; from Pennsylvania, ROBERT WALN; from Maryland, SAMUEL SMITH; from Virginia, HENRY LEE, THOMAS EVANS, and JOHN TRIGG; from North Carolina, RICHARD DOBBS SPAIGHT, and JOSEPH DICKSON; and from Georgia, BENJAMIN TALIAFERRO, appeared and took their seats in the House.

And a quorum, consisting of a majority of the whole number, being present,

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 administered by the SPEAKER to JOHN C. SMITH, a new member, who appeared and took his seat in the House yesterday.

*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 19.**

Several other members, to wit: from Vermont, LEWIS R. MORRIS, and from Virginia, JOSIAH PARKER and JOHN RANDOLPH, appeared, and took their seats in the House.

## THURSDAY, November 20.

Two other members, to wit: from Virginia, ABRAM TRIGG, and from Pennsylvania, ANDREW GREGG, appeared, and took their seats in the House.

## FRIDAY, November 21.

Several other members, to wit, from Massachusetts, GEORGE THATCHER; from New Jersey, JOHN CONDIT, AARON KITCHELL, and JAMES LINN; from Pennsylvania, JOHN A. HANNA; and from South Carolina, ROBERT GOODLOE HARPER, appeared, and took their seats in the House.

A message from the Senate informed the House 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 the Hon. JOHN HOWARD, President of the Senate, *pro tempore*.

*Resolved*, That Mr. GRISWOLD, Mr. SAMUEL SMITH, and Mr. CRAIK, be a committee, on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, 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 think proper to make to them.

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

A message from the Senate informed the House that the Senate have appointed a committee jointly, with the committee appointed by this House, 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 think proper to make to them.

Mr. GRISWOLD, 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 think proper to make to them, reported that the committee had performed that service, and that the PRESIDENT signified to them he would make a communication to both Houses to-morrow at twelve o'clock, in the Senate Chamber.

## SATURDAY, November 22.

Two other members, to wit: from North Carolina, ARCHIBALD HENDERSON; and from Virginia, EDWIN GRAY, appeared, and took their seats in the House.

### *President's Speech.*

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.

Mr. SPEAKER, attended by the members of this House, then withdrew to the Senate Chamber, for the purpose stated in the Senate's message; and, being returned, Mr. 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. [See Senate proceedings of this date, *ante*, page 482.]

*Ordered*, That the said speech 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, Mr. SPEAKER resumed the chair, and Mr. HARPER 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 the present session, containing assurances that this House will duly attend to the important objects recommended by him to their consideration.

*Ordered*, That Mr. GRISWOLD, Mr. MACON, Mr. CRAIK, Mr. HENDERSON, and Mr. NICHOLAS, be appointed a committee to prepare an address, pursuant to the said resolution.

*Ordered*, That the Speech of the PRESIDENT OF THE UNITED STATES be committed to the Committee of the whole House on the state of the Union.

And then the House adjourned.

## MONDAY, November 24.

Several other members, to wit: from Massachusetts, HARRISON G. OTIS, and PHANUEL BISHOP; from Virginia, MATTHEW CLAY; and from North Carolina, DAVID STONE, appeared, and took their seats in the House.

WILLIAM M'MILLAN, returned to serve as a Representative for the Territory of the United States north-west of the Ohio, in the room of William Henry Harrison, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

## TUESDAY, November 25.

Another member, to wit, JOHN WILKES KITTERA, from Pennsylvania, appeared, was qualified, and took his seat in the House.

A new member, to wit, NATHAN READ, returned to serve as a member of this House from the State of Massachusetts, in the room of Samuel Sewall, who has resigned his seat, appeared, produced his credentials, and took his seat in the House.

### **WEDNESDAY, November 26.**

A new member, to wit, LYTTLETON W. TAZEWELL, returned to serve as a member of the House for the State of Virginia, in the room of John Marshall, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House. [Pg 499]

#### ***Address to the President.***

The House went into a Committee of the Whole on the reply to the PRESIDENT'S Speech, which was read by paragraphs, and reported to the House without any amendments, as follows:

To JOHN ADAMS, *President of the United States*:

SIR: The House of Representatives have received with great respect the communication which you have been pleased to make to the two Houses of Congress, at the commencement of the present session.

The final establishment of the seat of National Government which has now taken place within the District of Columbia, is an event of no small importance in the political transactions of our country: and we cordially unite our wishes with yours, that this territory may be the residence of happiness and virtue.

Nor can we, on this occasion, omit to express a hope, that the spirit which animated the great founder of this city, may descend to future generations, and that the wisdom, magnanimity, and steadiness, which marked the events of his public life, may be imitated in all succeeding ages.

A consideration of those powers which have been vested in Congress over the District of Columbia will not escape our attention; nor shall we forget that, in exercising these powers, a regard must be had to those events which will necessarily attend the Capital of America.

The cheerfulness and regularity with which the officers and soldiers of the temporary army have returned to the condition of private citizens, is a testimony clear and conclusive of the purity of those motives which induced them to engage in the public service; and will remain a proof, on all future occasions, that an army of soldiers drawn from the citizens of our country, deserve our confidence and respect.

No subject can be more important than that of the Judiciary, which you have again recommended to our consideration, and it shall receive our early and deliberate attention.

The Constitution of the United States having confided the management of our foreign negotiations to the control of the Executive power, we cheerfully submit to its decisions on this important subject. And in respect to the negotiations now pending with France, we sincerely hope that the final result may prove as fortunate to our country, as the most ardent mind can wish.

So long as a predatory war is carried on against our commerce, we should sacrifice the interests and disappoint the expectations of our constituents, should we, for a moment, relax that system of maritime defence, which has resulted in such beneficial effects. At this period, it is confidently believed that few persons can be found within the United States, who do not admit that a Navy, well organized, must constitute the natural and efficient defence of this country against all foreign hostility.

The progress which has been made in the manufacture of arms, leaves no doubt that the public patronage has already placed this country beyond all necessary dependence on foreign markets for an article so indispensable for defence; and gives us assurances that, under the encouragement which government will continue to extend to this important object, we shall soon rival foreign countries, not only in the number, but in the quality of arms completed from our own manufactories.

Few events could have been more pleasing to our constituents, than that great and rapid increase of revenue which has arisen from permanent taxes. Whilst this event explains the great and increasing resources of our country, it carries along with it a proof which cannot be resisted, that those measures of maritime defence which were calculated to meet our enemy upon the ocean, and which have produced such extensive protection to our commerce, were founded in wisdom and policy. The mind must, in our opinion, be insensible to the plainest truths, which cannot discern the elevated ground on which this policy has placed our country. That national spirit, which alone could vindicate our common rights, has been

roused, and those latent energies, which had not been fully known, were unfolded and brought into view, and our fellow-citizens were prepared to meet every event which national honor or national security could render necessary. Nor have its effects been much less important in other respects.

Whilst many of the nations of the earth have been impoverished and depopulated by internal commotions and national contests, our internal peace has not been materially impaired; our commerce has extended, under the protection of our infant Navy, to every part of the globe; wealth has flowed without intermission into our seaports, and the labors of the husbandman have been rewarded by a ready market for the productions of the soil.

Be assured, sir, that the various, and important subjects recommended to our consideration, shall receive our early and deliberate attention; and, confident of your co-operation in every measure which may be calculated to promote the general interests, we shall endeavor, on our part, to testify, by our industry and despatch, the zeal and sincerity with which we regard the public good.

The report of the committee was immediately taken up, and, on the question to agree to the Address,

Mr. NICHOLAS rose and observed that he regretted the introduction of political matter, calculated to produce discord and division. He was averse to the House spending time in propounding political theories, as no good, but much mischief, might flow from such a procedure. Had no other topics or sentiments been alluded to than those contained in the President's Speech, there would have been much less division in the House than was to be expected from the insertion of extraneous ideas. He had no intention, however, to enter into a detail of the objections he entertained to the Address. For the reasons he had assigned, and others which he felt, he thought the style of the Address not only unnecessary, but worse than useless. He concluded by desiring the yeas and nays to be taken.

The question, being taken, was carried in the affirmative—yeas 36, nays 32, as follows:

YEAS.—Bailey Bartlett, William Cooper, Wm. Craik, John Davenport, Franklin Davenport, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Elizur Goodrich, Roger Griswold, Archibald Henderson, Benjamin Huger, Jas. H. Imlay, Henry Lee, Silas Lee, James Linn, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Leven Powell, John Read, Nathan Read, Wm. Shepard, John C. Smith, Richard Dobbs Spaight, George Thatcher, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

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NAYS.—Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, John Dawson, Lucas Elmendorph, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, and Jos. B. Varnum.

*Resolved*, That Mr. SPEAKER, attended by the House, do present the said Address; and that Mr. GRISWOLD, Mr. MACON, and Mr. CRAIK, be a committee to wait on the PRESIDENT to know when and where it will be convenient for him to receive the same.

### ***Credentials of Members.***

Mr. DENT, from the Committee of Elections, to whom were referred the certificates and other credentials of the members returned to serve in this House, made a report, in part, which was read as follows:

"That they have examined the credentials of several members, claiming seats in the House, in consequence of resignations which have taken place, and find that, by the certificate of the Governor of Massachusetts, dated the eleventh day of November, eighteen hundred, under the seal of the State, Nathan Read (of Danvers) is duly elected, in the place of Samuel Sewall; that by the certificate of the Governor of Connecticut, bearing date twentieth day of October, eighteen hundred, with the seal of the State annexed, John Cotton Smith is duly elected, in the place of Jonathan Brace; and that, by the certificate of the Deputy Sheriff of Henrico, the Sheriff of Hanover, the Sheriff of New Kent, the Deputy Sheriff of Charles City, and the Sheriff of James City Counties, composing one entire district in the Commonwealth of Virginia, under their respective seals, Lyttleton Waller Tazewell is duly elected, in the place of John Marshall.<sup>[58]</sup>

"The committee also find, by an authenticated certificate signed by the Speaker of the House of Representatives, and the President of the Legislative Council of the Territory north-west of the river Ohio, dated the seventh day of November, eighteen hundred, that Wm. McMillan is duly elected to represent the said Territory, in the place of William Henry Harrison.

"Whereupon, the committee are of opinion that Nathan Read, (of Danvers,) John

Cotton Smith, and Lyttleton Waller Tazewell, are entitled to take their seats in the House in the place of Samuel Sewall, Jonathan Brace, and John Marshall, who have resigned; and that William McMillan is entitled to take his seat therein, with the right of debating, but not of voting, in the place of William Henry Harrison, who has resigned."

*Ordered*, That the said report do lie on the table.

### THURSDAY, November 27.

Another member, to wit, JOHN BIRD, from New York, appeared, and took his seat in the House.

#### *Answer to the Address.*

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:

*Mr. Speaker, and Gentlemen of the House of Representatives:*

Compelled by the habits of a long life, as well as by all the principles of society and government which I could ever understand and believe, to consider the great body of the people as the source of all legitimate authority, no less than all efficient power, it is impossible for me to receive this Address from the immediate Representatives of the American people, at this time, and in this place, without emotions which it would be improper to express, if any language could convey them.

May the spirit which animated the great founder of this city descend to future generations; and may the wisdom, magnanimity, and steadiness, which marked the events of his public life, be imitated in all succeeding ages.

I thank you, gentlemen, for your assurance that the Judiciary System shall receive your deliberate attention.

With you, gentlemen, I sincerely hope that the final result of the negotiations now pending with France, may prove as fortunate to our country, as they have been commenced with sincerity, and prosecuted with deliberation and caution. With you, I cordially agree, that so long as a predatory war is carried on against our commerce, we should sacrifice the interests and disappoint the expectations of our constituents, should we for a moment relax that system of maritime defence, which has resulted in such beneficial effects. With you, I confidently believe that few persons can be found within the United States, who do not admit that a Navy, well organized, must constitute the natural and efficient defence of this country, against all foreign hostility.

Those who recollect the distress and danger to this country, in former periods, from the want of arms, must exult in the assurance, from their Representatives, that we shall soon rival foreign countries, not only in the number, but in the quality of arms, completed from our own manufactories.

With you, gentlemen, I fully agree, that the great increase of revenue is a proof that the measures of maritime defence were founded in wisdom. This policy has raised us in the esteem of foreign nations. That national spirit and those latent energies which had not been and are not yet fully known to any, were not entirely forgotten by those who had lived long enough to see, in former times, their operation, and some of their effects. Our fellow-citizens were undoubtedly prepared to meet every event which national honor or national security could render necessary. These, it is to be hoped, are secured at the cheapest and easiest rate: if not, they will be secured at more expense.

I thank you, gentlemen, for your assurance that the various subjects recommended to your consideration, shall receive your deliberate attention. No further evidence is wanting to convince me of the zeal and sincerity with which the House of Representatives regard the public good.

I pray you, gentlemen, to accept of my best wishes for your health and happiness.

JOHN ADAMS.

WASHINGTON, Nov. 27, 1800.

The members then returned to their Chamber.

A message from the Senate informed the House that the Senate have proceeded to the appointment of a Chaplain to Congress, on their part, and the Right Reverend Bishop CLAGETT has been duly elected.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress on the part of this House; and upon examining the ballots, a majority of the votes of the whole House was found in favor of the Reverend THOMAS LYELL.

## **FRIDAY, November 28.**

Another member, to wit, ABRAHAM NOTT, from South Carolina, appeared, and took his seat in the House.

## **MONDAY, December 1.**

Several other members, to wit: from Maryland, JOHN DENNIS; from Virginia, JOSEPH EGGLESTON; from North Carolina, WILLIAM H. HILL; and from Georgia, JAMES JONES, appeared, and took their seats in the House.

## **TUESDAY, December 2.**

The SPEAKER laid before the House a letter from the Secretary of the Navy, accompanying a report of the Commissioners of the fund for navy pensions and half-pay, pursuant to the act for the better government of the Navy of the United States; which was read, and ordered to lie on the table.

Mr. LEE, from the committee appointed for that purpose, reported a bill for erecting a Mausoleum to GEORGE WASHINGTON, which was read twice and referred to a Committee of the Whole to-morrow.

The bill directs that the mausoleum shall be of marble, to be erected in the City of Washington, under the superintendence of the four Secretaries.

### ***Trade with the Indians.***

Mr. CLAIBORNE stated that during the last session a committee was appointed to inquire into the state of the trade, authorized by law, with the Indian nations. That committee had reported unfavorably to the trade. But desirous of maturing with deliberation a new plan before the old one was supplanted, they had reported a bill for continuing the existing system for one year. The bill had passed the House of Representatives unanimously, but had been postponed by the Senate to this session.

For his own part, he was altogether unfavorable to the trade; for he believed that it answered no good purpose in relation to the Indians, while it was a loss to the United States.<sup>[59]</sup> It was, however, proper that some Legislative provision should be made immediately. The old law regulating the officers who had the superintendence of the trade, had expired, and they were of consequence under no legal control.

He, therefore, moved the appointment of a committee, to inquire into the expediency of carrying on any further trade on a capital furnished by the United States, to report by bill or otherwise; which motion being read a second time, was agreed to, and a committee of three appointed.

## **THURSDAY, December 4.**

Another member, to wit, SAMUEL GOODE, from Virginia, appeared, and took his seat in the House.

The SPEAKER informed the House that the Chaplains had proposed, if agreeable to the House, to hold Divine service every Sunday in their Chamber.

### ***Reporting the Debates.***

Mr. HILL presented a memorial from Samuel Harrison Smith and Thomas Carpenter, representing that they had undertaken to report the debates of the House; that, contrary to their expectation—on the suggestion of inconvenience to the members—they had not received permission to occupy a situation within the bar, without which they were unable to state with fidelity the proceedings and debates; and praying the permission of the House to be admitted within the bar.

As soon as the memorial was read, the SPEAKER rose and observed, that feeling himself responsible to the House for the faithful discharge of the duties attached to his situation, he thought it proper to state the line of conduct he had pursued in this business. He stated that he was applied to by letter on the first day of the session, by Mr. Stewart, requesting permission to occupy a place within the bar; that he immediately took the request into consideration; that, in the mean time, similar requests were made by other individuals; that, on observing the structure of the room and the arrangement of the furniture, it at once appeared to him inconsistent with the dignity of the House or the convenience of the members to grant the permission asked; that the area was too small to afford the necessary accommodation; that the position considered as the least inconvenient to the House was within the window-frames; that, in his opinion, this position would not be agreeable to the stenographers, as the view of the members on the opposite side of the House from either window would be obstructed; that, if a position was assigned in any other part of the House, the stenographers would be between the chair and some of the members, which would render the preservation of order impossible; that he had stated these reasons, and informed the applicants that, if agreeable to them, he would assign a place in the gallery, which should be set apart for their exclusive use; and that he considered that to be the most eligible position. He concluded by repeating, that it was, in his opinion, absolutely impossible to preserve the dignity of the House and to maintain the convenience of the members,

if the requested permission were given. Such was his first, his invariable opinion—it was unaltered—it was still the same.

Mr. NICHOLAS said, that the members of the House must feel a common interest in having the debates taken with fidelity. If the debates were taken, they ought to be taken with precision. Those who took them should not be debarred from the best means of hearing with accuracy. For his part he could not discern the inconvenience alleged to exist. The desk, which it was necessary to admit within the bar, would not project beyond the window-frame; and as to the remark of the Speaker respecting the inconvenience of such a position to the stenographers, it was easily obviated by the consideration, that any inaccuracy which might occur in the report of the individual who took them on one side of the chair, would be checked by the reporter situated on the other side.

He thought the desire of the memorialists ought not to be passed over lightly. They had a right to the best place the House could assign. He moved the reference of the memorial to a select committee.

Mr. HILL observed that as the memorial contained no facts that required the investigation of a committee, and as the House possessed all the information that could guide their decision, he did not discern the propriety of the proposed reference. He had prepared a resolution, which, if the motion for a reference were withdrawn, he would offer.

Mr. NICHOLAS immediately withdrew his motion. Mr. HILL then proposed a resolution substantially to this effect: that Mr. SPEAKER be requested to assign places within the bar for the stenographers.

Mr. OTIS was sorry the gentleman from Virginia had withdrawn his motion to refer the memorial to a select committee, as he thought the subject required examination before a decision was made. There appeared to him much weight in the ideas of the Speaker. Grant, for the sake of argument, that four persons may be accommodated at the windows. Might there not be other applications? Was any gentleman prepared to say how many would be made? If the permission were once granted to one, would it not be necessary to extend it to all? Would the House suffer any individual to have an exclusive benefit whereby a stamp of authenticity would be fixed on his statements.

This business, in one shape or other, had often been before the House, and all conversation respecting it had always issued in leaving it to the regulation of the Speaker. This appeared to him the best termination it could receive.

From the attention he had paid to the debates reported this session, he believed them to be better and more accurately taken, than they had been on former occasions. This to him was a proof that the present situation of the stenographers was a good one. He acknowledged, at the same time, that the ability with which the debates were taken entitled those who took them to the best accommodation the House could afford. He concluded with renewing the motion for a reference to a select committee.

Mr. NICHOLAS replied, that no debate had taken place which could test the accuracy of the stenographers. From his own experience he pronounced the situation at present occupied utterly inconvenient. What he had some days since remarked had been misstated. He well knew that this did not arise from the inability of the reporter to state correctly what occurred. He knew him to be intelligent, and fully capable of conceiving and conveying the meaning of any remarks which could be made in that House. But it arose from his situation, from which it was impossible to hear distinctly.

He declared the objections of Mr. OTIS, in relation to the number of applicants, perfectly chimerical. Did the gentleman suppose that the number would be so great as to make a demand on their seats? As well might he imagine this, as that they would swell to the ideal compass he had given them. It was known to the House, that at Philadelphia the number was small; seldom more than two, and often not more than one persevered during the session, though a greater number appeared on its earliest days. Fact and experience, therefore, demonstrated the fallacy of the danger apprehended from this source.

The question was then taken on the reference to a select committee, and carried—ayes 42, noes 34.

And a committee of five, viz: MESSRS. OTIS, NICHOLAS, PLATT, MORRIS, and HILL, was appointed.

### **FRIDAY, December 5.**

Several members, to wit: from North Carolina, WILLIAM BARRY GROVE; from Kentucky, THOMAS T. DAVIS; and from Rhode Island, CHRISTOPHER G. CHAMPLIN, appeared, and took their seats in the House.

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### ***Mausoleum to Washington.***

Mr. H. LEE moved that the House do go into a Committee of the Whole on the bill "directing the erection of a mausoleum to GEORGE WASHINGTON."

On which motion the House divided—yeas 36, nays 34. Mr. MORRIS took the chair.

The Chairman, after reading the bill through, proceeded to read it by paragraphs. The first section is as follows:



"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a mausoleum of American granite and marble, in a pyramidal form, one hundred feet square at the base, and of a proportionate height, shall be erected, in testimony of the love and gratitude of the citizens of the United States, to GEORGE WASHINGTON."

Mr. ALSTON moved an amendment to the first section, which was, in substance, "that a monument of marble be erected in the Capitol, at the city of Washington, commemorative of the great events of the military and political life of GEORGE WASHINGTON."

Mr. H. LEE said, that during the last session the House, after a long debate, had declared itself in favor of a mausoleum, and that as no reasons had been assigned for a change of opinion, he hoped they would persevere in the deliberate result of their judgment.

Mr. OTIS was ready to acknowledge himself unacquainted with many of the circumstances embraced by the subject. He therefore wished additional information to that which he had received. His present opinion was, that a mausoleum was preferable to a monument. He acknowledged that, in forming this opinion, he had felt great deference for the judgment of the committee which had recommended it. It was undoubtedly a subject but little understood. The formation of a proper decision depended upon a concurrence of several circumstances—upon a comparison of the expense with the value of the object to be accomplished. Besides this, it had many peculiar features not comprehended by every gentleman. He thought these considerations sufficient to induce the House to decline voting for the amendment, whereby the plan of the committee, who had maturely considered the subject in all its relations, would be frustrated, unless stronger reasons were assigned than he had yet heard.

Mr. NICHOLAS observed, that the bill directed the erection of a mausoleum of certain dimensions, to ascertain the expense of which an estimate had been made. But that estimate was not satisfactory. It was made without information. The sum to be expended was not fixed. It might vastly exceed any sum now contemplated. The mausoleum was to consist of a huge, ugly mass of stones heaped upon one another, to raise which a heavy and useless expense would be incurred. And what was the object? It was to perpetuate the memory of GEORGE WASHINGTON. Was the memory of that great man to be perpetuated by a heap of large inanimate objects? The best way in which his fame could be preserved would be by bringing his ashes from the place where they now lie, by depositing them in the Capitol at the will of the nation, in interring them in such a manner as had never before been done, in placing over them a plain tablet, on which every man could write what his heart dictated. This, and this only was the basis of his fame. It was not to be blazoned by figures or representations of any other sort. It consisted in the undecaying recollection of his virtues. It must live in the national feeling, and this called not for useless expense. Twenty thousand dollars was as competent to its expression as two hundred thousand. He hoped, therefore, the amendment would be adopted, and that the terms which related to military and political achievements would be omitted. He hoped a plain monument would be erected.

His preference of a monument to a mausoleum arose not from any indisposition to celebrate the memory of our American hero. He could say as much in his praise as any man. Neither a committee of Congress nor the four Secretaries, on whom the bill devolved the superintendence, felt more zeal for the character of this great man than he did.

Mr. NOTT did not rise to consume the time of the committee by going at large into an examination of the subject, but to explain the reasons for the vote he meant to give. He had, last session, co-operated most cheerfully in all those measures which had been pursued to express the national sensibility at the loss of that great and immortal character. In the feelings of gratitude which his services excited, no man could outdo him. Among other measures, he had been friendly to the erection of a mausoleum. But, on more reflection, he had changed his opinion. He did not believe that a huge mass of stones would add to the reputation of WASHINGTON, or be more expressive of national affection, than a marble monument. This being the case, he preferred the latter, because it was the least expensive.

Mr. GRISWOLD hoped the amendment would not prevail. It was the object of the bill to raise a monument which would last for ages, and which should be a perpetual memorial of the gratitude of America. Such would not be the case if the proposition made by the gentleman from North Carolina should be adopted. The monument proposed by him might be broken and destroyed by a lawless mob or by a set of schoolboys. For his part, he would not consent to raise such a monument to the memory of a man who had deserved so well of his country.

The bill proposed the erection of a monument that would stand unimpaired for ages. It is true that it will not perpetuate the fame of WASHINGTON: his fame required nothing which we could do to give it perpetuity; but it will perpetuate the gratitude of the country. It would be a structure that will command respect; it will be pointed out to our children; they will enter it with reverence, as the spot in which the ashes of this great man are deposited.

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It was undoubtedly a subject of sentiment; and subjects of such a kind must be guided by feeling. Various opinions, therefore, may naturally be expected. His opinion was, that the national sentiment called for the erection of a structure correspondent in size to the character of the man to whom it was raised.

The general outlines of the bill might now be adopted; and if there existed a variance of opinion, the subordinate members of it might be modified.

Mr. H. LEE said, if it were the wish of gentlemen to avoid the adoption of measures

commemorative of the talents of the great man we have lost, it would be candid to tell us so at once. For his part, he saw little difference between the adoption of the amendment and the rejection of every plan proposed that was adequate to the occasion. Sir, said Mr. L., there is not a rich man in Europe who loses his mistress that does not raise a trophy to her memory; and shall it be said that we, who have sustained the most irreparable loss in the death of our Chief—shall it be said that we refuse to pay him those honors which are lavished so liberally upon such inferior objects? If you do not mean to come forward on the occasion, say so. Then we shall understand the reasons of opposition to the ground taken by this House last session. As yet no reasons had been assigned for abandoning it. We then declared that we would act. We exhibited a spirit worthy of the immortal WASHINGTON—worthy of the distinguished character of this House.

But should this honorable spirit, kindled by an enthusiasm in the virtues and talents of our departed benefactor, subside and be chilled by the adoption of the proposed amendments, he would condole with the House, and would rather they would be silent for ever than disgrace themselves and their country by so subordinate an act.

It is true, sir, that the celebrity and the glory of WASHINGTON hang not on our plaudits. History will transmit to posterity the lustre of his fame, glittering with untarnished purity. It is not in our power either to increase or diminish it. But, sir, we may imitate his virtues and his great example. We are deeply interested in holding them forth as illustrious models to our sons. Is there, then, I ask you, any other mode for perpetuating the memory of such transcendent virtues so strong, so impressive as that which we propose? The grandeur of the pile we wish to raise will impress a sublime awe in all who behold it. It will survive the present generation. It will receive the homage of our children's children; and they will learn that the truest way to gain honor amidst a free people is to be useful, to be virtuous.

This will not be the act of an individual. It will be the act of a Government expressing the will of a great nation. Seize then, I pray you, seize with rapture, the occasion that is now presented, thankful to the Supreme Disposer of events for giving you an opportunity of rearing some future WASHINGTON. This is a great object; frown, then, upon all the little efforts made to defeat it.

It is certainly true, that if you erect a mausoleum, you must expend some public money. But are you not the guardians of the public treasure? Does not the selection of the best objects to which to appropriate it devolve on you? And can there be a greater, a more patriotic purpose than this? Is it not your great duty to promote the public good; and can that be more completely promoted in any other way? The sum asked is seventy thousand dollars. Who can show me in what other manner the same good can be effected by so small a sum?

But it is said that the bill vests a discretion in the Secretaries, and they may exceed the estimate. But, sir, are the Secretaries unworthy of confidence? Do not we know that we may safely rely upon them? Besides, if thought expedient, the expenditure may be limited. Thus, surely, without prodigality on the one hand or parsimony on the other, you may do honor to yourselves and your country.

Mr. MACON did not pretend to know much about that kind of things proposed by the bill; but he believed, from the little he did know, that such a thing had not been attempted for a thousand years. The expense attending the proposed measure had been treated lightly. For himself, he was not disposed to consider seventy thousand dollars a trifling sum. He thought it a great sum, and believed every man in the country thought as he did. In forming his idea of any particular sum, he was not carried away by the visionary notions of speculation; he looked at the labor it required to produce it; and he well knew how hardly earned was the money from which this enormous sum must proceed.

He further believed that no man could tell how much the mausoleum would cost. The seventy thousand dollars was only a beginning; and when the object was once begun, experience tells us that we must finish it at all events, let it cost what it might. The base was fixed at a hundred feet. Why not decide its other proportions? Did not the silence of the bill on this point show the ignorance of gentlemen? All was doubt. What strengthened his opinion of the total want of information, was the exhibition last session of two estimates: one of which was predicated on a base of sixty feet, and required sixty-seven thousand dollars; the other was predicated on a base of one hundred feet, making the structure nearly three times as large, and requiring only seventy thousand dollars. Could this be correct? Both estimates certainly could not be true. The probability was that neither could be depended upon.

For what purpose was this great mass to be raised? He saw no good purpose likely to be answered by it under the sun. Can stones show gratitude? If the nation wished to show its gratitude, let them do it by making a history of the life of WASHINGTON a school-book. Our children then will learn and imitate his virtues. This will be rendering the highest tribute to his fame, by making it the instrument of enlightening the mind and improving the heart.

While there are such rational modes of distinguishing the memory of WASHINGTON, can Congress so far forget the interest of the nation; can they so far forget their own duty, as to expend millions in acts of useless and pernicious ostentation? Since the invention of types, monuments are good for nothing. The records of history will remain long after their decay or destruction.

We are told that the best mode of perpetuating the memory of WASHINGTON is to erect a mausoleum. I have heard, said Mr. M., of Aristides, I have heard of Hampden, but I have never heard of monuments raised to their memories. Yet their virtues shine as bright now as they did while they lived. I have heard of a place called Westminster Abbey, full of the monuments of kings; yet, notwithstanding these grand memorials, I have heard very little of them after they left

this world, and I question very much whether any man, let him have heard what he may, if he were to go there could tell one of them from the other.

But, it is said that the monument, proposed by the amendment, may be thrown down and destroyed by mobs or schoolboys. God forbid that this should ever be the case! I do not believe, said Mr. M., this to be possible. If it were made of glass, frail as it is, it would be safe; all would revere, all would respect it.

The House is told by one gentleman, who advocates the mausoleum, that a rich man in Europe cannot lose his mistress without raising a monument to her memory. Was the gentleman serious when he made this remark? Would he place the memory of WASHINGTON on a footing with that of a rich man's mistress? Better, sir, said Mr. M., far better would it be, more honorable to the Government, and more conformable to the wish of our deceased friend, to devote the seventy thousand dollars, designed for a mausoleum, to the education of the poor. Then, indeed, we might flatter ourselves with having extended the empire of his virtues, by making those understand and imitate them, who, uninstructed, could not comprehend them.

If he thought that by raising a magnificent monument to WASHINGTON, he could give duration to his fame, or carry his name into a single country which it had not yet reached, he would give the measure his support. But no such effect would be produced. It might indeed adorn this city; and that was the only plausible argument in favor of it.

Before gentlemen act in this business, let them look to Egypt; there they will behold precedents in profusion; men made gods, and statues and monuments and mausolea covering the whole face of the country; but where will they find the virtues or the talents of the men they were meant to commemorate? Now is the time to make a stand against this monument mania. WASHINGTON is admired and beloved by all. No one can be charged with a desire to diminish his fame by opposing a useless expenditure of money. The precedent we now establish will be auspicious to our future measures. If we decline raising a mausoleum to WASHINGTON, no man who succeeds him can expect one reared to his memory. On the other hand, if we now raise one to WASHINGTON, every pretender to greatness will aim at the same distinction.

Mr. MACON concluded by declaring himself hostile to the bill, and friendly to the amendment, because it proposed a plan that was more rational, more economical, and more conformable to the resolve of the old Congress, than that contained in the bill.

The committee then rose without coming to any decision, reported progress, and obtained leave to sit again.

### **MONDAY, December 8.**

Several other members, to wit: from Connecticut, CHAUNCEY GOODRICH, and SAMUEL W. DANA; and from Rhode Island, JOHN BROWN, appeared, and took their seats in the House.

A new member, to wit, SAMUEL TENNEY, returned to serve in this House as a member for New Hampshire, in the room of William Gordon, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

### **TUESDAY, December 9.**

Another member, to wit, JOHN RUTLEDGE, Jr., from South Carolina, appeared, and took his seat in the House.

#### ***Reporting the Debates.***

The House proceeded to consider the report of the committee to whom was referred the memorial of Samuel Harrison Smith and Thomas Carpenter, made yesterday, and which lay on the table; and, the same being again read, in the words following, to wit:

"The committee to whom was referred the memorial of Samuel Harrison Smith and Thomas Carpenter, report the following resolution, which they recommend to the House:

"*Resolved*, That it is not expedient for this House to make any order upon the subject of the memorial of Samuel Harrison Smith and Thomas Carpenter, presented on the fourth day of December instant."

Mr. CHRISTIE moved the reference of the report to a Committee of the Whole.

Mr. GRISWOLD opposed the reference.

The House divided—for the reference 43, against it, 46.

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Mr. JACKSON made several remarks, and concluded by calling for the yeas and nays, which were ordered.

Mr. NICHOLAS said, in a Government like ours, the theory of which is republican, and the practice of which he hoped would always continue to be republican, he considered the representatives of the people responsible to the people, by whom they were created. It was necessary, to give efficacy to this responsibility, that the people, who were to judge, should possess the purest information, as to not only the acts, but the motives of the public agents. It was of little consequence to them to know what laws are enacted, compared with a knowledge of projects

that were attempted or prevented, and the grounds on which they were supported or opposed. Nor could the merits of the acts themselves be understood, unless the reasons for them were stated. It was, therefore, of the highest consequence that the reasons for our conduct should be clearly understood, that our measures may be comprehended, and our motives also known, that our constituents may judge whether we have faithfully discharged our duty.

Under this view of the subject, he thought it extremely indelicate to resist the admission within the bar of those persons who thought themselves qualified to take the debates and proceedings of the House. But what rendered the attempt still more improper, was, its being an innovation on the practice of the House. For, since he had been a member of the Legislature, individuals of this description had been placed by the House at their ease, in a situation convenient for hearing what passed. Why is this practice, hitherto unopposed, now to be broken in upon? For such an innovation and departure from the established practice of the House, there ought to be the strongest reasons; particularly when the attempted innovation respected, and was made by, those whose conduct was to be scrutinized.

It was not without deliberation that the practice of the House had been instituted and adhered to. Some gentlemen had, some time since, contemplated the employment of a particular individual, whose services were to be paid for by the House. But the idea was abandoned, from the supposed sanction given by such an act to his statements; whereby the House might be made responsible for his accuracy and talents.

The difficulty attending the business he acknowledged to be great. But, for the reasons he had assigned, he thought the House had acted right in forbearing to interfere, further than by merely assigning a convenient place to the stenographers. It was deemed safest to confide the business to persons not known officially to the House, whose own individual interest would constitute the best pledge for their fidelity. Though no precise resolve had been passed to this effect, it was well understood that this was the course the House meant to pursue, after having given the subject a deliberate and solemn consideration.

Shall we now, said Mr. N., after this mature consideration, on the mere suggestion of personal inconvenience, on a subject of such importance as to invite a gentleman from a considerable distance, [referring to some old plan,] shall we, after the sanction of a uniform practice, fortified by the long period for which it has been observed, on the suggestion of a trifling inconvenience, which, he believed, on examination, would not be found to exist at all, adopt the innovation proposed by the report of the committee? For his part, he thought they were all deeply interested in having the debates well taken, as it was not in their power altogether to prohibit their being taken.

He had heard but two objections made to the old plan. The first was, that by passing a resolve admitting stenographers within the bar, the House gave a sanction to the reports published by them. The second was, that as the Speaker had heretofore had the management of the business, it would be wrong to take it out of his hands.

As to the first objection, he thought it altogether incorrect. The resolution, submitted by the gentleman from North Carolina, (Mr. HILL,) which he wished the House to adopt, does not propose the selection of any particular person. It admits, generally, those individuals who wish to take the debates. Can this admission make us responsible for the conduct of men we do not know, and over whom we have no control? Have we heretofore been considered as responsible? And wherein consists the difference between our past situation and the situation we shall be in, if the motion of the gentleman from North Carolina be adopted? We shall then only have done that which before had been done by the Speaker. Governed by a sense of duty, the Speaker had refused admission within the bar. It became, therefore, necessary, in order to admit, for the House to pass a resolution. But it did not follow that the least responsibility would arise from such an act.

Indeed, by admitting the stenographers within the bar, the responsibility of the House would be diminished; for, if the House admitted them, no one could then say that it had done any thing that interfered with a faithful report of the debates; whereas, by excluding the stenographers, the unavoidable inaccuracies committed, might be charged to the House.

The second objection made to the resolution of the gentleman from North Carolina, was that, as the Speaker had heretofore had the management of the business, it would be wrong to take it out of his hands.

Mr. N. in reply to this objection, observed, that the power, heretofore exercised by the Speaker on this subject, had not been expressly delegated to him by the House. It had often been thought of, but no decision had heretofore been made. As the object asked related to the convenience of the members, he thought they were the best judges of the propriety of granting it. The inconvenience alleged to exist was entirely a matter of opinion. He thought it either had no existence or a very limited one. As he had remarked before, the subject was extremely delicate. He would not consent to furnish room for being charged with a wish to suppress the means of making an inquiry into his conduct. He believed that the innovation contended for, would be so viewed; so far, therefore, from considering it as innocent, he viewed it as wrong in itself, and likely to be mischievous in its effects.

Mr. OTIS was one of those who was not disposed to make a strong stand against the resolution offered by the gentleman from North Carolina. He did not view the point in so interesting a light as did the gentleman who had preceded him. It appeared to him in the shape of a question of convenience; and as to his own situation, it could not be affected by any permission given to

stenographers to come within the bar. Many of the arguments he had heard, implied that the situation at present occupied by the stenographers was exclusive of all others; whereas if that were inconvenient they might take any other, so that they did not come within the bar.

It is true that the stenographers have hitherto been admitted within the bar. They were admitted because there was room. But, in our present chamber, the room was less; nor could they occupy a part of that little, without materially interfering with the convenience of the members.

In his opinion, the proper question for the House to consider was, whether an admission should take place independent of the Speaker, or whether he should decide its propriety. It did not follow, if the Speaker retained the management, that the exclusion would apply to all occasions. It was true, that the places desired by the stenographers were generally assigned to the high Executive officers of the Government, and the foreign Ministers. But if, in consistence with their accommodation, the indulgence could be granted, during any important debate, he had no doubt of the Speaker's readiness to admit them, and they might thus obtain a temporary place within the bar.

Mr. O. thought the remarks of the gentleman from Virginia covered too much ground. They ascribed to the friends of the report an attempt to preclude the people from obtaining all information of what passed in the House. No such design existed. For his part, he wished the people to know every thing that occurred within these walls. There was no doubt of the debates, as heretofore given, being an inadequate organ of the ideas of the members; they had been taken for nearly twelve years, and sometimes they had been accurate, and at other times very inaccurate; and so complete had the distortion of sentiments often been, that had it not been for the name that was attached to a particular speech, the member, to whom it was ascribed, would not have known it to be his. Mr. O. would, notwithstanding, not deny the ability of a person who read the debates, to form a tolerable idea of the arguments used on a particular subject.

The charge of innovation, Mr. O. thought unjust. He proposed to leave the business as it had heretofore been left, free from any resolve of the House, to the control of the Speaker. By this conduct, no sanction would be given to the performances of any reporter; but, on the other hand, if the House passed a resolve, divesting the Speaker of his previous power, they would render themselves responsible, and would virtually give a sanction.

If it were resolved that the House should interfere, he would much rather select and pay an individual competent to the business, and appeal, for the faithful discharge of his trust, to his candor and impartiality.

If the House passed the resolution admitting the stenographers within the bar, Mr. O. asked whether they would not in fact be officers of the House. The only difference between them and the other officers would be that one would be paid and the others would not.

Mr. O. said that, in his opinion, the most inconvenient position in the House had been taken by the stenographers. It was near the Clerk's office, between which and the bar there was a perpetual passage of the members. If an experiment were made of a position on the other side, or in the upper gallery, he was persuaded it would be found very convenient. Are not, said Mr. O., the galleries constructed for the express purpose of hearing? Are they not intended for the good people of the United States? And if they can hear in them, cannot the stenographers also?

Mr. O. concluded by stating the extreme inconvenience that would arise from admitting the stenographers; the interference it would produce with the assignation of seats to the Secretaries of our Government and the foreign Ministers; and with declaring his opinion that it was most expedient to adopt the report of the committee.

Mr. NICHOLSON said, that if he understood the objections made by the gentleman from Massachusetts to granting an admission of the stenographers within the bar, they might be classed under three heads: 1. It will be against precedent; 2. It would prevent the members from having elbow room; 3. There is a possibility that the Speaker may indulge the stenographers.

As to the first objection, he would ask whether the House had not a right to exercise any power themselves that was exercised by the Speaker. Hitherto the Speaker has exercised the power, and admitted the stenographers within the bar; he now refuses to do it, and we are called upon to perform what he refuses. If we think it proper to admit them, we have a right to do it. The power heretofore exercised by the Speaker was derived from us, according to the well-known maxim, *Qui facit per alium, facit per se*.

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But we are told that the admission would interfere with the accommodation of the four Secretaries and the foreign Ministers. Suppose it should, said Mr. N.; I ask whether the convenience and the interest of the people of the United States are to be prostrated by our complaisance to the Secretaries and foreign agents? It is our duty to enable the people to obtain the best information of what is doing here, that we can supply. Shall we abandon our duty? Shall we sacrifice the interests of our constituents to a sense of politeness to these gentlemen? It would be much better to submit to the inconvenience experienced by the Secretaries and the foreign Ministers, if there is not room for them within the bar, than to conceal from the people the knowledge they have a right to possess. Let, then, the foreign Ministers, if there be such a competition, retire into the galleries.

He considered the subject as of high importance both to the country and the members themselves. They all ought to desire their conduct to be rigidly inspected.

Gentlemen say that the debates have been heretofore imperfectly taken. Will they remedy the evil by excluding the stenographers from places within the bar? If, heretofore, notwithstanding

the favorableness of their position, when stillness and silence reigned, they have been unable to take the debates with precision, can it be expected that, driven to a distance from most of the members, surrounded by a crowd in perpetual motion, they will be able more successfully to accomplish their object? Sir, said Mr. N., the expectation is absurd. It cannot be done. I have placed myself without the bar, and I declare it impossible to hear correctly. If, then, you are determined to exclude them from their usual places, you had infinitely better turn them out of the House altogether.

As to the convenience of the galleries for hearing, Mr. N. was not able, from a trial made by himself, to decide upon it. But he had heard but one uniform opinion, which was, that owing to the constant passage of persons, and the frequent crowd it would contain, it was impossible to hear there with any distinctness. With respect to the remarks made by the gentleman from Massachusetts on this point, he thought them altogether inapposite. The gallery was not constructed by us, and if it were a bad place for hearing, it arose not from any fault to be ascribed to us. All that we did was to open our doors to all citizens who conducted themselves with decorum.

The personal inconvenience to members alleged, did not, in the opinion of Mr. N., exist. He thought there was ample room. The chamber they occupied was similar to that in Philadelphia, and the positions desired by the stenographers were relatively the same as those in Philadelphia. By advancing the Clerk's table three feet, every difficulty would be removed.

Mr. RUTLEDGE said, that the members who had preceded him had talked much about the necessity of giving the people correct information of the transactions of that House. He believed there was not a single member who did not wish to impart to the people all the knowledge they could receive, and who did not highly prize the means of information furnished by the proceedings of that House. On this point there was no division. No one was desirous of excluding the stenographers, or prohibiting the publication of debates. The only question really before the House was, whether they should persevere in the old plan; whether they should confide in the integrity and the talents of the Speaker, who had hitherto merited their confidence, or whether, divesting him of his power, they should exercise a right themselves hitherto attached to his office.

Such a mode of procedure as had been pursued on this occasion was not conformable to that heretofore practised. An application somewhat similar had been, some time since, made to the Speaker. The Speaker decided, and the House, without debate, acquiesced in his decision. A stenographer had grossly misrepresented a member, and when required to correct his false statement, had insolently refused to do it, and added to the previous injury of misstatement insult of the most contumelious kind. The Speaker dismissed him from his place for this barefaced misconduct. Some of his friends made an appeal to the House. The House acted wisely, and, with becoming dignity, refused to interpose.

Now, said Mr. R., if any other stenographer, like the one I have alluded to, shall make it his systematic practice to misrepresent, and he continue as heretofore to hold his place at the tenure of the Speaker's permission, he may be dismissed by the Speaker without troubling the House. But should the motion made by the gentleman from North Carolina prevail, we shall be perpetually appealed to, and occupied in debate. For these reasons he trusted the report would be agreed to.

Mr. HILL said he considered the subject as simply involving an address to the sentiments of the members on the ground of personal convenience, and that on that ground he was ready to sacrifice any little inconvenience to the accommodation of the stenographers; stating at the same time his entire reliance upon the integrity and talents of the Speaker.

Mr. GRISWOLD said, this is nothing less than an appeal from the Chair. To the Speaker has heretofore been committed the regulation of the admission of all persons whatever within the bar. This is the only correct mode in which such an object can be accomplished. The Speaker must exercise the discretion hitherto vested in him, otherwise the order of the House cannot be preserved. The object now is to take this power from the Speaker, and to open the area of the House to the stenographers, without the Speaker's approbation. It is said that only two persons at present apply. But if the door be once opened to admission in this way, there may be no end to intrusion. The Speaker being divested of power to act, and the necessity of acting being evident, the House will be perpetually troubled with appeals.

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In his opinion, the power confided to the Speaker had been exercised in this case with great propriety. It must be apparent to every body that the area was too small to justify the admission of the stenographers. He believed it to be an idle pretence that the stenographers could not hear. He believed it to be a mere matter of pride, which would be gratified by an appeal from the Chair, and a reversal of the decision of the Speaker by the House.

Mr. THATCHER, persuaded that all the information derived from the debates of this House was of little comparative importance when viewed in relation to the general mass of information possessed by the people, cared but little for the event of the resolution before the House. Upon this ground he felt no anxiety whatever. As a matter of order, it might perhaps be of some importance. As to the convenience of position, he doubted whether a more correct account of the debates could not be given from a situation without the bar than within it. His reasons were these: It was well known that for four or five sessions after the organization of the Federal Government stenographers never came within the bar, and their positions during that period were as remote from the members as at present. Yet if any man would appeal to the debates then taken, he would find them as correctly taken as they have been at any time since. It is true, there

were complaints of inaccuracy, but the debate takers never assigned, as a justification of their errors, the inconvenience of their situations; on the contrary, they declared that they did as well as they could, and contended that their reports were as correct as the nature of the case permitted.

When the seat of Government was transferred to Philadelphia, and the stenographers occupied places within the bar, complaints increased, the debates were taken more incorrectly, and two or three of the stenographers were actually turned out of the area within the bar; one of whom, he believed, was sent into the upper gallery.

The incorrectness of the published debates did not arise so much from an inability to hear as from an inability to take down a rapid speech.

Mr. T. said he believed the debates as taken down by Mr. Lloyd, were as accurately taken as any taken before or since. The conclusion he drew from these facts was, that if the stenographers were admitted by the House within the bar, the public would gain nothing by it. He had, however, no objection to their admission, if the Speaker approved it. They might, as far as he cared, take any place in the House; even seats alongside of the Speaker.

Mr. DAVIS had expected to hear substantial reasons in support of the report of the committee. None such had been offered. It was said that the stenographers could hear very well from their present positions. He denied it. The reporter could not possibly hear. Though himself nearer the gentleman, he had not heard a word that fell from the gentleman from North Carolina.

He trusted the House would admit the stenographers within the bar. If not admitted, the conversation and passage of the members around them will at once prevent the debates from being well taken, and be a perpetual excuse for their errors. But if admitted, they will have no such apology, and they will be within the power of the House.

The great mass of our citizens are too remote to attend your debates. They rely on those who report them. Not more than forty or fifty persons transiently appear in the galleries, who are not equal to diffusing a knowledge of your proceedings. Exclude the stenographers, and you may as well shut your doors. It may be said that you print your journals; but who reads them? They are scarcely read by the members themselves. On great national questions the people ought to know, not only what you do, but also the principles that guide you.

The gentleman from South Carolina was willing to place the stenographers under the coercion of the Speaker, but was unwilling to place them under the coercion of the House. For his part, he thought differently. He did not wish to see them at the mercy of the Speaker.

Several allusions had been made to the treatment of a reporter at Philadelphia, who had been driven from the House by the Speaker. He recollected the affair, and, in his opinion, the Speaker had in this case been actuated more by personal enmity, than by any other motive.

Mr. H. LEE next rose. He said he put it upon the candor of his colleague from Virginia to declare whether, in his opinion, any gentleman in that House wished to suppress his sentiments, or was disposed to shrink from an avowal of them. If an individual were to judge from the debate of today he would infer that it was the desire of some members on that floor to conceal their sentiments from the people. No such thing was the case. We are as anxious as those who differ with us that the people should know what we think, say, and do.

The only question was, whether the Speaker shall exercise a certain power which he can conveniently, and which he has hitherto honorably exercised, or whether we shall assume it with all its inconveniences. He hoped we should not. He feared no inaccuracy so long as the debates published received no sanction from the House.

Have you, said Mr. L., no greater objects to engage your attention than whether this man or that man shall go out of your bar, or remain within it? He thought the House might be better employed.

Mr. MACON understood the subject before the House very much as his colleague did. The question was simply whether we will take upon ourselves inconveniences alleged to exist, or keep the stenographers without the bar. He was convinced that the situations occupied by the stenographers were badly calculated for hearing, as even within the bar the members could scarcely hear each other.

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One reason had great weight with him. It was, that if the House made a rule in relation to the admission of the stenographers, it would be placing law in the room of discretion. He preferred a certain rule to a vague discretion.

The danger apprehended from a crowd of stenographers was farcical. Since he had been in Congress he had never seen more than three or four. And if the number admitted should prove inconvenient, it would be time enough, when the inconvenience was experienced, to remedy it.

Mr. S. SMITH said the question was entirely one of inconvenience. He would not ascribe to any member a desire to suppress his sentiments. The speeches never went forth as delivered. Yet it was desirable to assign to the stenographers the most convenient places. He had heard gentlemen on both sides of the chair declare they would experience no inconvenience from the admission of the stenographers. For himself, from his situation, he could experience none. He believed, indeed, that the members could be heard from any part of the House, and nearly as well in one place as in another. But as other gentlemen hold a different opinion, and the stenographers had hitherto been admitted within the bar, he had not the least objection, and would vote for their admission.

In this stage of the debate, the SPEAKER arose, not, he said, to inquire into the consequences of the House acting in the business, but again to repeat the line of conduct he had pursued, and the motives which had influenced his conduct; he did this for the information of members not in the House at the time he had before addressed the House. The SPEAKER then repeated what he had before stated, viz: that on being appealed to by Mr. Stewart, he had declared to him his decision before any other application had been made; that he had spoken to many members, all of whom, without a single exception, had approved his ideas, and concluded with again declaring, as he had before declared, that the stenographers could not be admitted within the bar without violating the order of the House and the convenience of the members. It was, he said, for the House to decide—to them only was he responsible.

Mr. NICHOLAS understood it to be the object of those who supported the admission of the stenographers within the bar to place them upon the same footing they had heretofore held. This was his object. All the remarks, therefore, made respecting their independence of the Chair, were inapplicable. They would still be subject to his control, except as to the single point of situation. In short, the business would be restored to its old form.

His colleague had made an appeal to his candor. He wished to know whether he (Mr. N.) thought that he or any other gentleman in that House wished to suppress his sentiments, or was disposed to shrink from an avowal of them? He would answer the appeal made by his colleague, and would tell him that he did not feel himself at liberty to form conjectures respecting the opinions of others, but decided from facts. If he heard gentlemen make use of arguments so weak as those he had heard that day in defence of their sentiments, he would say that their feelings differed essentially from his. He would say that, judging them by their arguments, they do not wish publicity to be given to the debates of this House.

What do the gentlemen tell us? Does it not amount to this: that their complaisance for the Speaker suffers him to judge for them in a case where they are the best judges; and would not this complaisance go to this length, that if the Speaker should judge wrong, they will not interfere to correct his error?

We are told by a gentleman just up, that the application made proceeds from pride, and that it can proceed from nothing else. But the gentleman has not assigned his reasons for this extraordinary charge.

It is contended that any place without the bar will be convenient for the stenographers. Let the place be pointed out. Let the gentlemen who urge this show us a place without the bar inaccessible to the whispers of the members and the pressure of a crowd. Do they imagine that any particular place can be assigned to which they can ensure a profound silence, and from which every person can be withheld? Do they not know, have they not experienced, that when business presses, when subjects of importance are discussed, a crowd is produced, noise ensues, and interposing obstacles render it impossible either to hear or see the members? In such cases, by far the most interesting that can occur, a recess within the bar can be their only protection.

The gentleman from Massachusetts had put the business upon a very extraordinary footing—a footing that he did not expect from him. He represented that it would be safe to trust the reporters to the Speaker's indulgence. For his part, he did not think it would be safe in such hands. Shall the Speaker have the discretion of saying what debates shall be taken and what shall not? Shall he, and he only, have the public ear? Could the Speaker desire this? Surely he could not. He ought rather to desire the House to decide generally than thus impose upon him such an invidious task.

Mr. N. said, he considered those who report the debates as appearing in this House on behalf of the people of the United States, to whom they communicated what passed here. The people were entitled to this information; and if, as observed by the gentleman from Massachusetts, either foreign Ministers or Secretaries, or any other gentleman in long robes, interfered with such an object, they ought to give way. He knew not wherein consisted the propriety of assigning them particular seats. What right had they to exclusive seats? He knew no connection that subsisted between them and this House. Be the right as it may, he was not for sacrificing a solid benefit to mere complaisance.

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But a gentleman has told us that one stenographer, for his misrepresentation and insolence, had been discharged by the Speaker. In the course of debate, Mr. N. said, he had studiously avoided any allusion to this circumstance. Nor would he now say any thing about it, as he thought it altogether foreign from the present question.

The respect which gentlemen expressed for the Speaker appeared to him to lead them from the object they professed to have in view. For, at present, the stenographers are not under the control of the Speaker. But admit them within the bar, and if they are guilty of misconduct, if they infringe any of the rules of the House, the Speaker has them within his power.

Some gentlemen apprehend the admission of a crowd of stenographers. The thing is morally impossible. When Congress met in a large populous city, where several daily papers were printed, we saw but two reporters. Here, removed from the busy world, where the demand for that description of labor which arose from publishing the debates was not nearly so great, and, of consequence, the profit less, it could not be expected that there could be more.

Mr. N. concluded by declaring that, in his opinion, it was the duty of the House to decide in this case. The Speaker had changed the established practice of the House. It became, therefore, the House to inquire whether he had done what he ought to have done; which, if he had omitted to do, it devolved on them to see effected.



Mr. WALN spoke in favor of the adoption of the report.

The question was then taken by yeas and nays, on agreeing to the report of the select committee, and carried by the casting vote of the Speaker. There being yeas 45, nays 45, as follows:

YEAS.—Theodore Sedgwick, (Speaker,) George Baer, Bailey Bartlett, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Archibald Henderson, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, James Linn, Lewis R. Morris, Harrison G. Otis, Robert Page, Josiah Parker, Jonas Platt, Levin Powell, John Read, Nathan Read, John Rutledge, jr., John C. Smith, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Dickson, Joseph Eggleston, Lucas Elmendorph, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William H. Hill, David Holmes, George Jackson, James Jones, Aaron Kitchell, Michael Leib, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Lyttleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

### WEDNESDAY, December 10.

Another member, to wit, MATTHEW LYON, from Vermont, appeared, and took his seat in the House.

#### *Mausoleum to Washington.*

The House went into a Committee of the Whole on the bill for erecting a Mausoleum to the memory of GEORGE WASHINGTON.

Mr. ALSTON was in hopes, when he first made the motion now under consideration, that a question would have been taken upon the amendment without debate; but, as his wish upon that subject had not been complied with, he held it to be his duty to give to the House the reasons which actuated him.

He said that he by no means wished to detract any thing from the merit of that illustrious character whose memory we were now about to perpetuate; that it was his wish that his character might be handed to the latest posterity unimpaired, and that he really thought the amendment equally calculated to effect that desirable purpose with the bill; that the difference of expense was a matter of importance to the people of this country; that the expense of a mausoleum, from the best information he had been able to collect, would amount to at least 150 or \$200,000; that a monument, such as was contemplated by the amendment, would not cost more than one tenth as much as a mausoleum, as contemplated by the bill as it now stood. Indeed, he believed that the bare expense of interring the remains of General WASHINGTON in a mausoleum would cost as much as the proposed monument.

Mr. A. said he considered Congress pledged, as far as the resolution of the last session went; that the gentleman from Massachusetts, (Mr. OTIS,) who was up a few day ago upon this subject, had requested information; in answer to which he had only to observe that if that gentleman would have given himself the trouble to have examined the proceedings of the last session of Congress he would have been better informed than he appeared to be; that a committee equally respectable with that which had reported the bill at the present time, had then fully investigated the subject, and had made a report, which was to be found upon the journals of the last session of Congress, recommending a monument such as was contemplated by the proposed amendment, and that the request made by the President of the United States to Mrs. Washington, in conformity to the report of that committee, was for a monument; to which request she had consented; he, therefore, considered Congress as pledged thus far and no farther; that a motion was made in this House to change the monument to a mausoleum; that the recent death of General WASHINGTON at that time, prevented any person from opposing any measure which was offered, let the expense be what it would; but that the time which had elapsed since, had enabled the public mind the better to judge.

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The gentleman from Virginia (Mr. LEE) and the gentleman from Connecticut (Mr. GRISWOLD) had dwelt a great deal upon the subject of public gratitude. It was by no means his wish or intention to lessen that sentiment, but he said that he could not give his consent to an expensive measure like that contemplated in the bill, when a measure far less expensive, in his opinion, would answer every purpose as well.

Mr. ALSTON was followed by Mr. HUGER, who advocated the erection of a mausoleum.

Mr. SMILIE replied. He considered the erection of a mausoleum as productive of unnecessary expense, as a monument would answer every rational purpose contemplated in the bill.

Mr. H. LEE next spoke at some length in favor of a mausoleum, and read a letter received from

Mr. King, our Ambassador at London enclosing a plan, presented to him by an eminent foreign artist, for a mausoleum of one hundred and fifty feet base, and the same height, the expense of which was estimated at \$170,000.

Mr. CHAMPLIN, after some remarks, moved that the committee rise, report progress, and ask leave to sit again.

Which motion being carried without a division, the committee rose; and on the question to grant them leave to sit again, only three members rose in the affirmative.

Mr. CHAMPLIN then moved the recommitment of the bill to the same committee that reported it, with the addition of two members, which was carried, and MESSRS. CLAIBORNE and CHAMPLIN appointed.

After Mr. CHAMPLIN'S motion for a recommitment of the bill to a select committee was carried,

Mr. CLAIBORNE said he had risen to move that the committee just appointed be instructed to inquire into the expediency of carrying into effect a resolution passed by the old Congress, on the 7th of August, 1783, directing an equestrian statue of General WASHINGTON to be erected at the place where the residence of Congress shall be established.

Mr. C. said, that on a question which could not fail to excite the sensibility of every American heart, it was a subject of great regret that a division of sentiment should arise. The memory of our departed patriot lives in the affections of a grateful country, and will triumph over time. During a long life, so usefully and honorably employed, WASHINGTON had reared to himself a fabric of fame, the lustre of which can neither be diminished nor heightened by any measure that we can take. But, sir, from a respect for our own, as well as for the feelings of the nation, we should endeavor to unite in the last act of attention which we propose to show this venerable character.

Mr. C. said that the proposition for a mausoleum was calculated to create division. The expense of such a monument would be immense, and would be viewed by many as a profuse and useless expenditure of the public money. He believed that the statue recommended by the old Congress could be better justified upon principles of economy, and would meet with more general support. Here Mr. C. read from the journals of the old Congress the following resolutions:

*"Resolved*, (unanimously, ten States being present,) That an equestrian statue of General WASHINGTON be erected at the place where the residence of Congress shall be established.

*"Resolved*, That the statue be of bronze—the General to be represented in a Roman dress, holding a truncheon in his right hand, and his head encircled with a laurel wreath. The statue to be supported by a marble pedestal, on which are to be represented, in basso relievo, the following principal events of the war, in which General WASHINGTON commanded in person, viz: The evacuation of Boston—the capture of the Hessians at Trenton—the battle of Princeton—the action of Monmouth—and the surrender of York. On the upper part of the front of the pedestal, to be engraved as follows: 'The United States in Congress assembled ordered this statue to be erected, in the year of our Lord, 1783, in honor of GEORGE WASHINGTON, the illustrious Commander-in-chief of the Armies of the United States of America, during the war which vindicated and secured their liberty, sovereignty, and independence.'"

A monument thus designed, (continued Mr. C.) would portray in lively colors the military achievements of our late illustrious Chief, and is calculated to impress upon our posterity a grateful recollection of his eminent services. Mr. C. was the more interested in support of a monument of this kind, because it had been sanctioned by a unanimous vote of those venerable philosophers and statesmen who presided in our councils, at a time of the greatest danger, directed the storm of war, and tamed the rage of tyranny.

It was true, that this equestrian statue would not express any of the great events of WASHINGTON'S civil life, but, of these, we have already many honorable testimonials; the first in order, and which he hoped would be the last in durability, was the Constitution of the United States; to this instrument his name was annexed, and would be noticed with gratitude by the lovers of freedom in every age and every clime; this city is another memento of his civil life, and, if it should be the residence of all that piety, wisdom, and magnanimity, which was so devoutly prayed for by each branch of the Legislature, at the commencement of the present session, this city would remain an honorable testimonial of the civil virtues of its great founder.

There was no doubt, said Mr. C., but that many gentlemen were also solicitous that the body of General WASHINGTON should be deposited within the walls of the Capitol; of this number Mr. C. was one, and was desirous that a plain but neat apartment should be speedily prepared for its reception. But over his remains, instead of an expensive monument, Mr. C. thought it most advisable to place a plain but neat tomb-stone, of American marble, and prepared by an American artist. And in order to convey to posterity, in impressive language, the feelings of the American nation, when the loss of our patriot, sage, and hero, was first announced, Mr. C. wished to see engraved upon this tomb the addresses of each House of Congress upon this occasion to the President of the United States, together with the President's replies thereto.

Mr. C. concluded by moving the instructions stated in the commencement of his speech.

Mr. CLAIBORNE was followed by MESSRS. CRAIK and NOTT.

The instruction to the committee, moved by Mr. CLAIBORNE, with a slight modification, was agreed

to.

### **MONDAY, December 15.**

Another member, to wit, THOMAS PINCKNEY, from South Carolina, appeared, and took his seat in the House.

### **THURSDAY, December 18.**

Another member, to wit, JAMES SHEAFE, from New Hampshire, appeared, and took his seat in the House.

### **FRIDAY, December 19.**

#### ***Mausoleum to Washington.***

Mr. H. LEE, from the committee to whom was referred the several propositions made commemorative of the services of GEORGE WASHINGTON, reported a bill for the erection of a mausoleum, differing in no other respects from the former bill reported, except as to the materials of which the mausoleum is to be constructed; the present bill directing it to be made of stone, the former one directing it to be made of marble. He said that the committee, after maturely considering the relative merits of all the plans proposed, had preferred the mausoleum, as well from its superior durability as cheapness, to any other.

### **TUESDAY, December 23.**

#### ***Mausoleum to Washington.***

Mr. H. LEE moved the going into a Committee of the Whole on the bill for erecting a mausoleum to GEORGE WASHINGTON.

On this question the House divided—yeas 42, nays 34.

Mr. MORRIS took the chair, and read the bill by paragraphs.

Mr. H. LEE said the merits of the bill had been so often discussed, and the subject was so delicate, that he would not again offer his sentiments generally on it. As it was the opinion of several members, that the dimensions of the mausoleum should not be fixed in the law, but that they should be governed by the sum appropriated, he moved to strike out "100 feet at the base and of proportionate dimensions."

The motion was agreed to.

Mr. H. LEE then moved an amendment confining the ground on which the mausoleum should be erected to public property.

Mr. HARPER opposed the amendment, which was lost, only 31 members rising in favor of it.

Mr. H. LEE then moved to fill the blank, fixing the sum to be appropriated for erecting the mausoleum, with \$200,000.

Mr. SMILIE said he hoped the House would not with its eyes open go into a measure that might involve incalculable expense. It was proposed to appropriate \$200,000. This was probably but a small part of what would be ultimately required; and when the thing was once begun, it must be completed, cost what it would. If the architect would give security for accomplishing the work for \$200,000 he would not be so much opposed to it. But, as it stood, he was opposed to it, as a useless expenditure of public money.

Mr. HARPER said the old story was again rung in their ears. An object, in itself highly important, was proposed, and, forsooth, because it cost some money, on the ground of economy it must be rejected.

He would ask the gentleman just up whether he knew any thing about the expense of a mausoleum? And yet not professing to be informed, professing indeed to know little, he had put his vague conjectures in the room of estimates formed with deliberation by artists of the first eminence. These clamorous objections were well understood. Their sole object was *ad captandum vulgus*; to create alarm about what was termed useless expense. They were intended for nothing else.

To satisfy the solicitude of gentlemen an artist of talents universally acknowledged had been desired to furnish an estimate; which estimate stated that a pyramid of 100 feet base would cost \$67,000. This was the estimate of an artist of such accuracy that in the greatest work ever undertaken in America, and the greatest, perhaps, of its kind, ever undertaken in the world, (he alluded to the water works of Philadelphia,) the expense actually incurred had fallen short of the estimate. The same accuracy had characterized his plan and execution of the Bank of Pennsylvania, which was probably the greatest work of the kind executed in this country. And yet the gentleman from Pennsylvania will place his vague doubts, and (Mr. HARPER begged pardon for the expression) his total want of knowledge against the calculations of a man of practical science.

The gentleman had asked whether any one could be found, who would be responsible for the

execution of the work for the proposed sum. Mr. HARPER said, if it were proper for a member of that House to say so, he would undertake himself to erect a mausoleum of 150 feet base, and 150 feet high, for \$200,000; and for the performance of his engagement he could give the most unquestionable security, such as every member of that House would approve. He further believed that the artist before alluded to, if required, would give the necessary security. The accuracy of the estimate had been tested by every circumstance that the nature of the case admitted. The same course had been pursued, in this case, that every reasonable man was accustomed to take in his own private concerns. Every such individual, who designed building a house obtained first an estimate from a skilful workman, which satisfied him. If men acted not in this way, there could be no progress in human improvements.

After this information, furnished by such an artist, gentlemen ought to be satisfied without opposing to it their own crude conceptions; and Mr. HARPER said he hoped they would cease to talk on a subject on which they were so ignorant, until they became better informed.

Mr. MACON did not see the subject in the same light with the gentleman from South Carolina. He was disposed to pay the greatest respect to his talents, but he could not give up his own opinion. The estimates made by the artist amounted to \$140,000; yet the gentleman from Virginia required \$200,000. Does not this show that the gentlemen themselves have not confided in the estimate of the artist?

Mr. H. LEE explained, and said that he thought the most proper plan for adoption was that of Mr. West; pursuing that plan, \$200,000 might be required, as there would be interior arrangements to make, additional to those contemplated by the estimate.

Mr. MACON said he thought \$140,000 would be sufficient. He knew not how to reconcile the difference between the estimate made in Philadelphia and that made in Washington; the first was only \$67,000; which was a sum much below any calculated here. He did not pretend to any information on this subject, and the various modifications the bill had undergone, convinced him that no member was well acquainted with it. The estimates differed materially from each other. They could not therefore all be correct. He could not, from these considerations, feel confidence in the estimates of the gentleman from South Carolina, or the other gentleman; for if they really possessed correct information, how came they so radically to differ; and the committee itself to propose so many alterations in the original bill?

Mr. SMILIE replied to Mr. HARPER. The object of his remarks was, to show that Mr. H. possessed as little information on the subject as himself.

Mr. RUTLEDGE.—The substance of what the gentleman says, is that he wants to do nothing. He had long thought so, and he was now confirmed in his opinion. When the man, whose loss the world deplored, departed from us, we were all shrouded with sorrow; the mournful event awakened our deepest regrets; and resolutions expressive of the national affliction at his death, and commemorative of his services, were unanimously passed by both Houses of Congress. Those resolutions were not carried into immediate effect, owing to the disagreement of the two branches of the Legislature. Now, when we propose to carry them into effect, objections are started to every measure offered; objections that rise eternally in our horizon; which, whenever we pursue, fly from our reach, and which, always moving in a circle, we can never overtake.

Gentlemen tell us they are unaccustomed to spend public money without estimates. To satisfy the vigilance of their economy we obtain them. They then tell us they are inaccurate; their objection arises from a want of detail; they wish a minute statement of each separate charge. Again, we consent to gratify their wishes, anxious for their sanction to our measures, that they may express the unanimous sentiment of Congress. We produce an estimate as minute as was ever furnished by an artist on any occasion. The total amount of estimated expense is \$140,000, and to avoid the necessity of calling on Congress again, the gentleman from Virginia asks for \$200,000.

Still, after all our trouble and solicitude to satisfy the scruples of gentlemen, they continue to urge objections. One gentleman says the estimate made at Philadelphia differs from that made here; another gentleman will not confide in any estimate, and another wants security.

Does it become the dignity of the House thus to be occupied with trifling objections on such a subject; and, in the spirit of bargaining, to waste its time in saving a few dollars?

Many gentlemen, anxious for this measure, had agreed to postpone the consideration of it, hoping thereby to accommodate other gentlemen in their views, and expecting ultimately a unanimous vote. But he now abandoned it. He saw no period to objections. Much time had already been idly wasted. They had delayed too long to do what ought to have been done at once. Let us then take the question at once, and get rid of it, though a veto should be passed upon the bill.

The question was then taken on filling up the blank with \$200,000, and carried—yeas 41, nays 38.

Mr. DENT moved to amend the section appropriating the sum, by substituting the word "for," in the room of the word "towards," which would fix the whole sum to be appropriated, instead of leaving it uncertain. Agreed to.

The committee then rose and reported the bill as amended. On the question to agree to the \$200,000 appropriated, the House divided—yeas 41, nays 38.

The SPEAKER then put the question on engrossing the bill for a third reading.

Mr. CLAIBORNE was opposed to the engrossing of the bill. He hoped no gentleman would ascribe

his opposition to a want of respect to the memory of our great patriot. His respect for this illustrious character had been almost coeval with his life, and would follow him to his grave.

He was opposed to a mausoleum, because it would not be so respectful to the memory of WASHINGTON, as the equestrian statue directed by the old Congress, who had directed the battle during our Revolutionary struggle, and for whose character he felt the highest veneration. The present Government could not refuse to carry into effect this act of the old Congress, without a violation of moral principle. He preferred a statue to a mausoleum, because the former, from representing the form and the features, would inspire the beholder with more lively emotions than a mass of stones formed into a pyramid.

Were the expense of a statue greater than that of a mausoleum, he would, notwithstanding, prefer it; but he believed the reverse would be the fact. He not only wished a statue raised, but also was in favor of an immediate appropriation for depositing the remains of our departed friend within these very walls, in such a manner as would not disgrace them.

Mr. CHAMPLIN had heretofore voted from a spirit of conciliation. He was now not a little surprised to find the gentlemen from Tennessee and South Carolina (Mr. CLAIBORNE and Mr. ALSTON) opposed to a mausoleum, though their names appeared, from an inspection of the journals of last session, among those who were then in favor of it.

He considered a mausoleum as preferable to a statue, because the first was calculated to celebrate all the virtues of the statesman, as well as the hero, while the latter would be limited to his military exploits.

Great opposition had been made to the erection of a mausoleum, with the professed view of avoiding expense, and I admit generally that economy ought to be observed, in the expenditure of public money. But on an occasion highly interesting to the feelings, and deeply involving the character of the nation, even the appearance of parsimony should be carefully avoided. It is necessary to consider the nature and magnitude of the object for which money is required. It is not asked for, in the present instance, to commemorate a man distinguished only on the field of battle. It is not wanted to gratify family pride, or to raise a monument of despotic power and slavish submission. It is to be furnished by a great and free people, to record, in a manner worthy of themselves, their gratitude for the important services rendered to them by one of their fellow-citizens; the fruits of which I cannot but hope will be enjoyed and recognized by future generations. We are called upon by the public voice to erect a monument suited to the character of WASHINGTON, who has been emphatically styled, *the man of the age*, and whose virtues may, by the record we shall make of them, become the property of distant ages.

These virtues will doubtless be the theme of some able biographer, and it is wished that posterity may not search in vain for some striking evidence of our acknowledgment of them. It is indeed of infinite importance to civil society, that the memory of that great man should be perpetuated by every means in our power. We may thus sow the seeds of virtue, honor, and patriotism, in our country. He will be held up a model, to which the finger of wisdom will constantly point, to which the attention of youth will be irresistibly drawn, and the mind of every man aspiring to pre-eminence among a free people, will be riveted. The proposed mausoleum would be a structure well calculated to resist the ravages of time. As to the hand of man, at least of civilized man, we need not guard against it. The depository of the ashes of WASHINGTON will never be assailed by it. It may indeed be attacked by the ruthless hand of some invading barbarian. But its only security against such an attack must be derived from the courage and fortitude of the people of the United States. And I trust they will never tamely yield up the land of their forefathers.

Mr. BIRD was against the bill, because it proposed the erection of a mausoleum, which would not be equal to the object for which it was raised without the expenditure of a vast sum of money; whereas a statue could be made, somewhat correspondent to the occasion, for a moderate sum. It was in vain for gentlemen to talk about a structure commensurate to the object. Such a thing was impossible. He moved the recommitment of the bill to a Committee of the whole House.

The question being put, the House divided—ayes 39, noes 39; and it passed in the negative by the casting vote of the SPEAKER.

Mr. SHEPARD said, I will do as much as any man to honor the memory of WASHINGTON. I have fought and bled with him several times. I have always supported and will continue to support him. But on the score of expense, I think we are going too far. I will go so far as to have his remains placed decently within these walls. Further I will not go; for I do not think we have a right to throw away the public money.

Mr. MACON delivered his reasons against a mausoleum, and in favor of an equestrian statue; and among other remarks, said, the idea that a mausoleum would be equal to the character of WASHINGTON, was preposterous. Few individuals in the world were capable of drawing his character. In a few words, he would say that no character that had ever lived was equal to him, and it was his firm belief, that the world would never see his equal.

Mr. BROWN thought General WASHINGTON the best man that had ever lived; and he was surprised at the ideas of gentlemen on the ground of expense. If the mausoleum were agreed to, it would not cost each person in the United States four cents; and if the equestrian statue were also made, (which he hoped would also be done, for the sake of general accommodation,) it would not cost more than two cents. It seemed to him that some gentlemen were averse to doing any thing, though they did not wish the people to think so.

Mr. ALSTON would not have risen, had he not been marked by the gentleman from Rhode Island as

an object of inconsistency.

Mr. CHAMPLIN explained by saying he did not mean to censure the gentleman for his change of opinion, for which he doubtless had good reasons.

Mr. ALSTON.—Let the measures of Congress be reviewed, and it would appear, that the House itself and the gentleman from Rhode Island had been as inconsistent as himself. He would appeal to the gentleman whether it was more honorable to desert his duty and fly a vote, than to act as he had done?

Mr. HUGER said it was unnecessary at this time to take into view the old arguments that had been urged. The proposition of the gentleman from Tennessee, for an equestrian statue, was the only one he should notice. So impressed was he with the inadequacy of a common statue to express the gratitude of America, that he would rather have nothing done, than to have what was done in this backhanded way.

He was disposed to treat with respect the acts of the old Congress. But the act, to which the gentleman from Tennessee had alluded, and which he wished this House exclusively to carry into effect, was passed in reference to the military exploits of Gen. WASHINGTON, because, at the time it was passed, his life had been most characterized by them. Since that period circumstances had changed. If we are bound by the acts of the old Congress, are we not equally bound by those of the last session? If you adopt the ideas of the gentleman, do you not hold out the Commander-in-chief of the American Army as deserving a splendid monument, and the father of the constitution and other great civil acts as deserving nothing?

Without any concert whatever, a remarkable concurrence had taken place between West, Trumbull, and other respectable artists, who all gave an unequivocal preference to a mausoleum; which, in his opinion, would be far less expensive than a statue. The expense of the latter, as would appear from an estimate in the office of the Secretary of State, could not be less than forty thousand guineas, deliverable at Paris; and when the additional charges of transportation, insurance, and other incidental expenses, were considered, he was persuaded it could not be completed for less than two or three hundred thousand dollars.

Mr. J. C. SMITH considered the Government as pledged to do that which they had promised, and which the national feeling required.

Mr. RANDOLPH must consider the present as a tedious and useless debate. The gentleman had declared the Government to be pledged. To whom were they pledged, and for what? It was to the relics of the deceased; to have them placed within these walls. For this, there were the strongest reasons, as such a measure would be agreeable to the venerable lady to whom he had been united. If then they were so pledged, why violate this pledge, by referring the business to the Secretary of State, of the Treasury, of War, and of the Navy; though what connection there was between the office of the Secretary of the Navy and the performance of the trust, he could not tell?

One consideration with him was insuperable. The departure from the original plan tended, unjustly, and most cruelly, (however pure the intention,) to violate the feelings of a lady, so much troubled already.

Mr. J. C. SMITH said it had been declared by some gentlemen that the reputation of WASHINGTON might be safely confided to the record of history. Was it the opinion of those gentlemen that the record was to be found in the charge of murder against that illustrious character? Was it to be found in the patriotic effusions of men who had pronounced all expressions of national gratitude a mockery of woe, and had declared that it was high time for those who were the sincere apostles of liberty to be done with such foolery; or was it to be found in the denunciations of a printer, supported by a State that perpetually boasted its regard to Republicanism?

Mr. HARPER could not but regret that a gentleman, who possessed so lively a regret for the venerable lady alluded to, should have exhibited in this discussion so glaring a contrast between his professions and his actions, by introducing that lady into the debate, and indelicately expressing her wishes, in reference to the place where the relics of her deceased partner should be deposited. Was it conceivable that to her the place could be of any importance? Or was it possible that this House could be enslaved by the trifling circumstance of the *locus in quo*, or that the paltry consideration attending an action of trespass could be gravely introduced into such a debate. All that this venerable lady says amounts to this, that, accustomed from the example of her deceased friend to obey the national wishes, she submitted to that disposition of his remains that Congress may make. Shall we, then, in violation of the plain meaning of her words, enter into whispers of hearsay respecting wishes, which, from his knowledge of her good sense, he was persuaded had never been uttered?

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Mr. RANDOLPH rose to explain. He had neither said, nor intended to say, that he possessed any knowledge beside that which appeared on the journals; and from that knowledge he was justified in saying that Mrs. WASHINGTON's compliance, as expressed by her, was not with any public will that might be expressed, but with that will which had been already expressed. Whatever insinuations the gentleman from South Carolina may mean to convey, his feelings of respect for every woman were sacred; nor were they limited to that sex alone. He was not disposed on this occasion to take the advice of the gentleman, who judging me by his own heart, said Mr. R., may imagine me capable of disrespect to the sex.

Mr. HARPER wished the gentleman would avoid any further interruption, and reserve his remarks until he was done. He did not know, nor was he concerned to inquire into the motives of the

gentleman from Virginia. Such inquiry would, of all others, be the least profitable or interesting, either to the House or to himself. Neither had he any idea of giving advice which that gentleman would follow. He well knew that it was the most hopeless of all things to give advice to one whose own sense of propriety did not tell him what was right. Those, who were incapable of receiving lessons from their own minds or feelings, were not likely to receive them from any other quarter.

The feelings ascribed to Mrs. WASHINGTON were unfounded. The lady was incapable of entering into trifling disputes about place or time, such as the House had this day witnessed.

The arguments, by which the superiority of a statue to a mausoleum was attempted to be established, were fallacious. The form and features of our illustrious friend would be preserved without the erection of any statue by us. Pictures by celebrated artists were every where multiplied and caught at with avidity; and the sculptor and the painter will be employed unceasingly to keep pace with the increasing demand. Likenesses may be found every where, and as perfect on the other side of the Atlantic as on this.

A mausoleum would last for ages, and would present the same imperishable appearance two thousand years hence, that it would now. Whereas a statue would only remain until some civil convulsion, or foreign invasion, or flagitious conqueror, or lawless mob, should dash it into atoms; or till some invading barbarian should transport it as a trophy of his guilt to a foreign shore.

I have beheld, said Mr. H., a monument erected to a man, once considered as the patron of America, defaced, mutilated, its head broken off, prostrated with the ground. A statue, erected by the Legislature of Virginia to perpetuate the virtues of a man to future ages, had been destroyed.

Besides, a statue was minute, trivial, and perishable. It was a monument erected to all that crowd of estimable but subordinate personages, that soar in a region, elevated indeed above common character, but which was infinitely below that occupied by WASHINGTON.

The greatest honor which this country ever has received, the greatest honor which it ever could receive, was derived from numbering with its sons the immortal WASHINGTON.

Shall then a mistaken spirit of economy, and a still more mistaken jealousy arrest us? Honor him, it is true, we cannot. The world has charged itself with that task. Posterity, as long as the world shall endure, will celebrate his virtues and his talents; those virtues and talents of which every ingredient of their happiness will be a perpetual evidence. But though we cannot honor him, we may dishonor ourselves; though we cannot increase the lustre of his fame, we may show our own meanness, cowardice, spite, and malice; and show an astonished world that we are deplorably unworthy of the high honor conferred by Nature in giving us a WASHINGTON.

I am, said Mr. H., awfully impressed by the subject. I sink under the sublimity that surrounds it. No words can reach it; mine are totally inadequate; to the feelings of the House then it must be submitted: they, after anticipating all that genius or eloquence can say, will still far surpass their boldest effusions.

Mr. RANDOLPH was very unfortunately situated, as he was compelled to rise, not in his own defence, but in defence of the calumniated reputation of that State which he revered, since from it he derived his birth.

I will not, said Mr. R., enter into an elucidation of the motives of the gentleman from South Carolina, which have produced so much asperity, and such a virulence of rancor against the State of Virginia, but will confine myself to the question on engrossing the bill.

The gentleman has talked to us about his disregard for the *locus in quo*. Mr. R. said he cared as little for the *quo modo*, as the gentleman did for the *locus in quo*.

He had further told us that a statue might be overthrown by a licentious mob; and that this had actually been the case in the State of Virginia. But, why had it been so? Because that statue had been erected in the life-time of the person it celebrated; because it had been erected under the Colonial Government; and because, like every other fetter of tyranny, it was broken by the Revolutionary spirit that established our liberties.

But, says the gentleman, statues are raised for subordinate men, for this admiral or that general, who may deserve well of their country, but who do not merit the highest distinctions of national gratitude. If this measure of raising a mausoleum is to be only a cover for obtaining statues for temporary and secondary and trifling characters, it may have a very alarming influence upon us.

It is not easy, for a man of even less sensibility than myself, to hear in silence the State in which I was born, and one of whose Representatives I am, calumniated in the manner in which it had been that day, by the gentlemen from Connecticut and South Carolina. In defence of that State, actuated by a love to it, and not from any respect to its detractors; not to repel any imputation of meanness, of cowardice, of malice, which the gentleman from South Carolina has called ours, (meaning, I suppose, his own,) I will inform him, and the gentleman from Connecticut, that that State was the first to celebrate the fame of the Hero of America, by erecting a statue to him in the Capitol at Richmond.

The gentleman from Connecticut objects to a confidence in the record of the historian. Does the gentleman wish to suppress the history of the political events of 1776? Or does he believe that these events will be handed down in association with the bloody buoy, and Porcupine's works? Perhaps he has formed from his own mind a proper selection for our children, and is against the press handing down any thing else?

Mr. H. said, that the gentleman from Virginia had misstated what he had said. He had cast no

reflection on the State of Virginia; but had barely stated two instances of statues overthrown and destroyed, to illustrate their frailty.

During the preceding debate, Mr. CLAIBORNE stated that the committee to whom this subject had been committed, had obtained several estimates; among which was one in writing, by Dr. Thornton, which states with confidence that the expense of an equestrian statue would not exceed from eight thousand to fifteen thousand pounds currency.

After some remarks from Mr. SHEPARD and Mr. LYON, the yeas and nays were taken on engrossing the bill, and were—yeas 44, nays 40, as follows:

YEAS.—George Baer, Bailey Bartlett, John Brown, Christopher G. Champlin, William Cooper, William Craik, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, Nathan Read, John Rutledge, jr., John C. Smith, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, John Bird, Phaniel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William Charles Cole Claiborne, John Condit, John Davenport, Thomas T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorph, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, John Randolph, William Shepard, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Lyttleton W. Tazewell, Philip Van Cortlandt, and Joseph B. Varnum.

The third reading of the bill was fixed for Thursday week; when the House adjourned to Tuesday, the thirtieth.

## **TUESDAY, December 30.**

### ***The Henderson claim to land guarantied by treaty to Chickasaw and Cherokee Indians.***

Another member, to wit, ROBERT WILLIAMS, from North Carolina, appeared, and took his seat in the House.

A memorial of Pleasant Henderson and others, inhabitants of the State of North Carolina, was presented to the House and read, stating their claims to certain lands ceded by the State of North Carolina to the United States, with a reservation of the claims of the petitioners; the possession of which lands the United States have since guarantied by treaty to the Chickasaw and Cherokee Indians; and praying relief in the premises.

*Ordered,* That the said memorial do lie on the table.

## **WEDNESDAY, December 31.**

### ***The Territory of Columbia.***

On motion of Mr. H. LEE, the House went into a Committee of the Whole on the bill in relation to the Territory of Columbia.

Mr. RANDOLPH moved to strike out the first section, which is in these words:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the laws of the State of Virginia, as they existed on the first Monday of December, in the year 1800, shall be and continue in force in that part of the District of Columbia which was ceded by the said State to the United States, and by them accepted for the permanent seat of Government; and that the laws of the State of Maryland as they existed on the said first Monday in December, shall be and continue in force in that part of the said District which was ceded by that State to the United States, and by them accepted, as aforesaid.

Mr. H. LEE said, that he was far from considering this bill as an act of supererogation. The constitution had prohibited the States of Virginia and Maryland from legislating for the Territory; and it now became a question, whether the existing laws of those States were in force, which question might come before the Judiciary. To obviate all doubts, this bill, in the shape of a declaratory one, was reported.

Mr. NICHOLAS said, this bill is not, in my opinion, merely an act of supererogation, but an act of immense mischief. I do not agree with my colleague in the construction he gives the constitution. He is of opinion, that the powers given to Congress on this subject must be exercised by them. I think differently. These powers are like many others conferred, which may or may not be exercised. It had never been contended that we are obliged to carry into execution all the powers with which we are invested. It is true, that we have nearly exhausted the letter of our charter, in



the extent to which we have gone; but this fact furnished no reason for going still further.

A construction contrary to that contended for had been given by Congress in the exercise of their power. The act of acceptance passed by Congress, confirming the cessions made by Virginia and Maryland, expressly declares, "that the operation of the laws of the State within such District shall not be affected by this acceptance until the term fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide."

Great force was attached to that part of the constitution which gave Congress exclusive legislation over the Territory. But the same clause of the constitution gave the same power over forts, magazines, arsenals, &c. Yet this power had never been assumed by Congress. The possession of the right had heretofore been considered as sufficient; the exercise of it was reserved until peculiar circumstances should occur, which rendered it necessary.

I believe the committee are not prepared to sanction this bill. To sanction it would be to place the inhabitants of the Territory in a situation for which they would not be thankful. It would impose upon them all the laws of Virginia and Maryland, as they existed on the first Monday of December, without those improvements which experience may suggest.

If this bill passed, it would leave a considerable portion of the inhabitants of the Territory without any judicial authorities to which they could appeal. There were parts of Fairfax, Montgomery, and Prince George's Counties, which would have no courts to which they could apply.

Another consequence that would result from the construction attempted to be given to the constitution, was the deprivation of the inhabitants of all participation either in Federal or State legislation. As, by the construction, they would cease to be the subjects of State taxation, it could not be expected that the States would permit them, without being taxed, to be represented.

Could any man desire to place the citizens of the District in such a state? To deprive them of the common right of participating in the passage of laws which all the citizens enjoyed?

If the construction be sound, that we are bound to legislate, then all the judicial proceedings which had taken place since the first Monday in December, whatever affected either property or persons, were mere nullities. I do not, however, believe the construction to be sound. I believe it opposed both to the spirit of the constitution and to the construction hitherto given by Congress. But were the construction just, to adopt the proposed bill would be to act in a way inadequate to the importance of the subject, which, involving in it a system of government for a large portion of citizens, ought not to be acted upon with precipitation, but ought to be conducted by the collected wisdom of Congress derived from mature and deliberate reflection.

Mr. H. LEE said, my colleague is wrong in supposing this bill a part of a permanent system. It is only intended to cure an evil which some persons have supposed to exist, from the doubtful jurisdiction of the States of Virginia and Maryland.

Mr. OTIS said, though I respect the talents of the committee who brought in the bill, yet I cannot discover that it contains a single new view or provision. Though I am myself at a loss to account for the necessity of the bill, the committee were certainly right, if they entertained doubts, to attract the attention of the House to them.

By the first act of Congress accepting the cession, the United States have legislated in the very way the gentleman from Virginia now proposes. As it appeared at that time impossible to form a code of laws, those of Maryland and Virginia were confirmed till Congress should legislate.

If it were true that Congress were bound to legislate themselves, an equal obligation existed at that time with that which existed at present. Their not having done so was a strong argument against the construction now contended for.

To pass such a law as that now offered, instead of removing, would be the very means of exciting doubt. The time may arrive when Congress must go into the subject in detail, and make those provisions that were necessary for a great city. But at present such a step was not called for: the Territory had gone on very well for ten years without the interposition of Congress, and I have no doubt it will continue for some time to come to do well without it.

Mr. BIRD said, this question, in my opinion, is susceptible of a very clear and precise solution. Did the acts of cession by the States, and of acceptance by Congress, take away the jurisdiction of those States, and vest it in Congress? The acts of Maryland and Virginia make a complete cession of soil and jurisdiction to Congress. This cession has been accepted by Congress. What is the consequence of one sovereign transferring all jurisdiction to another sovereign? Does not the power that cedes give up all right whatever to that which accepts? The words of the constitution are that Congress shall exercise exclusive legislation. If Congress exercise exclusive legislation, does it not follow that no other body can exercise any legislation whatever?

The gentleman from Virginia (Mr. NICHOLAS) does not deny the power altogether, but limits it, as a power that may or may not be exercised by Congress; and, in illustration of his opinion, instances the power to naturalize and to pass bankrupt laws. But the cases are not analogous. These last are powers that Congress may or may not exercise. The constitution does not apply to them the term exclusive; nor are they shut out by the actual words of that instrument or by necessary inference.

Over some objects Congress have partial authority; but in this case their authority is absolute and exclusive of all other; from which irresistibly follows the absolute cessation of all power in the ceding body.

It was undoubtedly the intention of the framers of the constitution, that after this Territory

became the actual seat of Government, no authority but that of Congress should be in force.

The act of cession by the States, after stating the terms of cession, contains a proviso, that the power of legislation thereby vested in Congress, shall not impair the force of the laws of Maryland and Virginia, till Congress shall otherwise by law provide. A proviso is to prevent something from being done that without it would be done. Congress declared the same thing when they accepted the cession with the same proviso. This proviso tends to supersede the cession. Having this effect it must fall, as conflicting with the act to which it is a proviso. It must be considered as absolutely void. A proviso is intended to prevent the operation of a particular thing, not to give an operation to it. It may prevent the enactment of a particular law, but it cannot re-enact that law.

A difference of opinion seemed to exist as to the period when the powers of the States were superseded. It was the opinion of some gentlemen that they ceased on the completion of the act of cession. The committee consider them as ceasing on the first Monday in December of the present year. It became the House solemnly to settle this point before they entered into the consideration of a complicated system of government. If the Legislative powers of the States had ceased, it follows, as a necessary consequence, that the Judicial powers had also ceased.

For these reasons I think it will be best to declare that things shall remain in *statu quo*. If the ordinary jurisdiction established be not competent, it may easily be made so.

Mr. RANDOLPH was not prepared to enter into a discussion of the important point before the committee. He would only state the dilemma in which the inhabitants of the District of Columbia would be placed by the construction given to the constitution by his colleague, who was of opinion that all Legislative and Judicial powers derived from Virginia and Maryland, ceased on the first Monday of December. If this construction were true, was it not equally true that the bill now proposed would be of the same validity, and of no more validity, than the act of acceptance passed by Congress.

From his being unprepared, what he offered was submitted more in the form of hints than of correct arguments. But it seemed to him that if the construction contended for should prevail, it would disfranchise the corporations of Georgetown and Alexandria, and all other corporations within the District. Would it not place the Territory in the situation of a conquered country? According to this construction, the Territory was in a state of anarchy, and murder, if committed, would be no crime.

Further, if the constitutional provision is obligatory upon us to assume exclusive legislation, are we not bound to establish uniform laws throughout the entire District? and of course are we not prohibited from establishing one system in one place, and a different system in another?

One other objection merited the gentleman's notice. The laws of Virginia precluded every officer under its Government from holding any Federal office.

From the impression made on his mind by these considerations, Mr. R. said, he would be wanting to himself and his country, if he agreed to the bill. He hoped, therefore, that the Committee would rise, and not precipitate a decision.

Mr. HARPER was in favor of the motion that the committee should rise, for the purpose of recommitting the bill to a select committee. He would state his reasons: The object of the first section was to assume the jurisdiction. That was his object. He wished the establishment of a Judiciary competent to the carrying into effect the laws now existing. He wished this object to be accomplished in a fair, open, direct way. At some future period Congress might find it necessary to enter on a system of legislation in detail, and to have established numerous police regulations. At this time, the present exigency would be provided for by confirming the laws of Virginia and Maryland, and by giving effect to them by the institution of a competent Judicial authority.

Mr. NICHOLAS said, that he should vote for the committee rising, from a different motive from that which actuated the gentleman from South Carolina. He hoped the business would be suffered for the present to sleep.

The construction given to the constitution by the gentleman from New York, did not render it merely expedient in Congress to assume jurisdiction, but rendered it an absolute duty. In reply to his remarks, the gentleman had alleged that the authority given by the constitution in relation to this Territory, differed from the other powers vested in Congress, inasmuch as the former investment of power had connected it with the word *exclusive*; whereas the latter had not. The meaning which Mr. N. affixed to that word, was altogether different from the one now contended for. The constitution does not say Congress shall possess exclusive power of legislation; but that they shall have power of exercising exclusive legislation.

The acts of cession and acceptance contained a construction directly opposed to that now made. They declare that the laws of Maryland and Virginia shall continue till Congress shall alter them. Their cessation is made to depend on an uncertain event, viz: whether Congress shall legislate or not. Not a tittle in the constitution or in our practice, under the constitution, infringed our liberty to act or not to act.

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What would be the effect of this law on the inhabitants of the Territory? It would impose on them the laws of Maryland and Virginia, as they existed on a particular day, without any capability of improvement from the improved code of those States.

Mr. N. had heard of no inconveniences which had arisen from the non-assumption of power by Congress. The people in the Territory of Columbia had been a happy people for more than a hundred years under their State Governments; and, he had no doubt, would remain so without

the interposition of Congress, who, at present, were unqualified to act.

After some further remarks by MESSRS. HARPER and H. LEE, the question was taken on the committee rising, and carried without a division.

The committee rose; the Chairman requested leave to sit again, which was not granted.

Mr. HARPER then moved to recommit the bill to the same committee that introduced it. He said, the objection made by the gentleman from Virginia to the assumption of power by Congress goes to say that the constitutional provision, the acts of cession of Maryland and Virginia, and the act of acceptance by Congress, shall be all a dead letter; and that the Territory shall continue, as heretofore, under its old jurisdiction. This was, to all intents and purposes, the amount of the gentleman's remarks. He asked, what necessity for the exercise of power by Congress? Had not the citizens lived happily for a hundred years under the State Governments? This Mr. H. did not dispute. It was probably true that they had lived as happily as other portions of citizens under the State Governments. But the provision of the constitution on this subject had not been made with this view. It was made to bestow dignity and independence on the government of the Union. It was to protect it from such outrages as had occurred when it was differently situated, when it was without competent Legislative, Executive, and Judicial power, to ensure to itself respect. While the government was under the guardianship of State laws, those laws might be inadequate to its protection, or there might exist a spirit hostile to the general government, or at any rate indisposed to give it proper protection. This was one reason, among others, for the provisions of the constitution, confirmed and carried into effect by the acts of Maryland and Virginia, and by the act of Congress.

The object of the gentleman was to defeat all these acts and all these arrangements, in subversion of that provision which the constitution had made, and of that necessity which it had foreseen.

The gentleman from Virginia requires more time. He thinks we are not prepared to legislate. But if his (Mr. H.'s) ideas were adopted, there would be no occasion for this. The Territory has laws; and Mr. H. believed these laws would answer very well for fifty years, without giving Congress much trouble to modify them.

The establishment of a Judiciary would be very easy, and would require little time. As to a police, it may be necessary hereafter. At present it was not necessary. With regard to a corporation, he was against it at present, and he did not think it would ever be necessary.

Mr. NICHOLAS did not consider the power imparted by the constitution as imperative. He, therefore, could not fairly be charged with a desire to deviate from the designs of its framers. The power was like a coat of armor, intended to protect the Government in periods of danger, and not to be worn at all times for parade and show.

Remarks had been made to show that the dignity and independence of the Government required the assumption. All such arguments, when set against the happiness of the people, were inconclusive; Mr. N. had always been taught to consider the true dignity of the Government as indissolubly connected with the happiness of the people; and was unable to unlearn all that he had heretofore acquired to this effect.

Mr. CRAIK agreed with the member from South Carolina, as far as his remarks went, but he did not think they went far enough. He was himself friendly to the institution of a local government for local purposes, leaving all Federal powers to Congress. If the bill should be recommitted, he would be prepared to offer a plan conformably to these ideas. He felt no alarm at the doubts suggested of the validity of the laws of Maryland and Virginia. He believed that they were still in force; and did not think there was any absolute necessity for Congress to act at all at present. Still, he thought that delay would only multiply the inconveniences already experienced in the formation of a plan of government. A plan might be framed, to protect the General Government as well as, in some degree, the inhabitants of the Territory, from any tyranny that some gentlemen supposed might be exercised by Congress.

He concluded, by expressing a hope that a completely organized system might be formed and adopted.

### **THURSDAY, January 1, 1801.**

The House of Representatives having received information of the death of Major General THOMAS HARTLEY, one of its members, who has represented the State of Pennsylvania, in that branch of the National Legislature, from the commencement of the Government until his death, do, therefore, unanimously, *Resolve*, That the members testify their respect for the memory of the said THOMAS HARTLEY, by wearing a crape on the left arm, for one month.

*Resolved*, That the SPEAKER address a letter to the Executive of Pennsylvania, to inform him of the death of THOMAS HARTLEY, late a member of this House, in order that measures may be taken to supply the vacancy occasioned thereby.

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### ***Mausoleum to Washington.***

An engrossed bill concerning GEORGE WASHINGTON was read the third time; and, on the question that the same do pass,

Mr. DAWSON moved to recommit it. Lost—ayes 39, noes 44.

Mr. RANDOLPH moved to refer the bill to a select committee. Lost—ayes 32.

Mr. SPAIGHT and Mr. DAVIS then assigned their reasons for voting against the bill.

The question was then taken on the passing of the bill, and it was resolved in the affirmative—yeas 45, nays 37, as follows:

YEAS.—Bailey Bartlett, John Brown, Christopher G. Champlin, William Cooper, William Craik, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Samuel Goode, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Lewis R. Morris, Abraham Nott, Harrison G. Otis, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, Nathan Read, John Rutledge, jr., John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, Phanuel Bishop, Robert Brown, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thos. T. Davis, John Dawson, Joseph Eggleston, Lucas Elmendorph, Edwin Gray, Andrew Gregg, John A. Hanna, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, Thomas Sumter, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

*Resolved*, That the title of the said bill be "An act to erect a Mausoleum for GEORGE WASHINGTON;" and that the Clerk of this House do carry the same to the Senate, and desire their concurrence.

## FRIDAY, January 2.

Another member, to wit, JAMES A. BAYARD, from Delaware, appeared, and took his seat in the House.

On motion of Mr. GRISWOLD the House went into a Committee of the Whole on the Judiciary bill; the House dividing—yeas 44, nays 33.

The bill was read through, when the committee reported progress, and asked and obtained leave to sit again.

### *Sedition Law.*

The House proceeded to consider the report of the Committee of Revisal and Unfinished Business, made the thirty-first ultimo, which lay on the table, and the same being again read, in the words following, to wit:

"The Committee of Revisal and Unfinished Business further report, in part:

"That, on examining the statutes of the United States, they find that the act, entitled 'An act in addition to the act, entitled "An act for the punishment of certain crimes against the United States,"' passed the fourteenth day of July, one thousand seven hundred and ninety-eight, will expire on the third day of March, one thousand eight hundred and one.

"And the said committee report their opinion, that the above-mentioned act ought to be continued; and, therefore, recommend the following resolution:

"*Resolved*, That the Committee of Revisal and Unfinished Business be authorized to report a bill for continuing the act, entitled 'An act in addition to the act, entitled "An act for the punishment of certain crimes against the United States,"' passed the fourteenth day of July, one thousand seven hundred and ninety-eight."

It was moved and seconded that the said report be committed to a Committee of the whole House. And the question being taken thereupon, it was resolved in the affirmative—yeas 47, nays 33.

*Ordered*, That the said report be committed to a Committee of the whole House on Tuesday next.

## MONDAY, January 26.

Several other members, to wit: from Kentucky, JOHN FOWLER; from Virginia, SAMUEL J. CABELL; and from New York, EDWARD LIVINGSTON, appeared, and took their seats in the House.

## THURSDAY, January 29.

### *Rules for Electing President when no Election by Electors.*

The following resolution, proposed by Mr. RUTLEDGE, was presented to the House, which, being read, was ordered to lie on the table.

"*Resolved*, That a committee be appointed to prepare and report such rules as, in their opinion, are proper to be adopted by this House, to be observed in the election of a President of the United States, whose term is to commence on the fourth day of March next, provided the Electors appointed under the authority of the States have not elected a President for that term."

**FRIDAY, January 30.**

***Election of President when the two highest on the List voted for have an equal number of Votes.***

Mr. BAYARD submitted the following resolution, to wit:

*Resolved*, That, in the event of its appearing upon the counting and ascertaining of the votes given for President and Vice President, according to the mode prescribed by the constitution, that an equal number of votes have been given for two persons, that as soon as the same shall have been duly declared and entered on the journals of this House, that the Speaker, accompanied by the members of the House, shall return to this Chamber, and shall immediately proceed to choose one of the two candidates for President; and in case, upon the first ballot, there shall not appear to be a majority of the States in favor of one of the candidates, in such case the House shall continue to ballot for President, without interruption by other business, until it shall appear that a President is duly chosen; and, if no such choice should be made upon the first day, the House shall continue to ballot from day to day, till a choice shall be duly made.

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*Ordered*, That the consideration of the said motion be postponed until Monday next.

**MONDAY, February 2.**

A new member, to wit, EBENEZER MATTOON, returned to serve as a member of this House for the State of Massachusetts, in the room of Samuel Lyman, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

***Election of President.***

A motion being made and seconded that the House do come to the following resolution, to wit:

*Resolved*, That a committee be appointed to prepare and report such rules, as, in their opinion, are proper to be adopted by this House, to be observed in the choice of a President of the United States, whose term is to commence on the fourth day of March next, if, when the votes which have been given by the electors appointed under the authority of the States shall have been counted, as prescribed by the constitution, it shall appear that no person for whom the electors shall have voted, has a majority, or that more than one person, having such majority, have an equal number of votes:

*Ordered*, That Mr. RUTLEDGE, Mr. NICHOLAS, Mr. GRISWOLD, Mr. MACON, Mr. BAYARD, Mr. TALIAFERRO, Mr. FOSTER, Mr. CLAIBORNE, Mr. OTIS, Mr. DAVIS, Mr. MORRIS, Mr. CHAMPLIN, Mr. BAER, Mr. COOPER, Mr. LINN, and Mr. WOODS, be appointed a committee, pursuant to the said resolution.

*Ordered*, That the motion made on Friday last relative to the mode of commencing and continuing the ballot for the choice of a President of the United States, be referred to the committee last appointed.

***District of Columbia.***

The House then went into Committee of the Whole on the bill for the government of the District of Columbia. While the question was being taken for the House to resolve itself into a committee, Mr. SMILIE rose and moved the postponement of this order till the third day of March next. He made this motion, he said, in order to try the sense of the House, whether they were determined to assume the jurisdiction or not. He hoped it would not, and was proceeding to show his reasons, when

The SPEAKER reminded him of the order of the House. He could not be permitted to discuss the merits of the bill under this motion.

Mr. SMILIE conceived the question to affect the bill generally, and simply to be, whether the House would agree to disfranchise some thousands of persons of their political rights, which they now enjoyed. If this was not considered an object of importance enough to command attention, he must confess other gentlemen saw it in a very different light from that in which he viewed it. By the passage of this bill, the people of the district would be reduced to the state of subjects, and deprived of their political rights, and he very much doubted whether not of their civil rights also. If, indeed, there was such an imperious necessity of assuming the jurisdiction, of which he was by no means convinced, then it must be done; but, if that great and immediate necessity did not exist, why should this privation of rights take place? If it was necessary to reduce the City of Washington to a state of local government by an incorporation, he contended that act could be

done by the State Legislature; as he did not conceive the local demands of the people called for it, as they could want no such assumption as the bill contemplated, and as he could perceive no advantage to be derived to the General Government thereby, and as the assumption would eventually injure the people, he trusted it would be postponed, at least.

Mr. RUTLEDGE said, he had always uniformly opposed any motion for postponing a bill, the consideration of which the House had not gone into. Although it might be in order, it could not be perfectly fair, from various considerations; if, however, it were only from its tendency to preclude the investigation of the bill, it were sufficient. The gentleman had stated it not to be necessary. Who are to judge? Most assuredly the people belonging to the Territory. And what have they said? Why, sir, they have prayed the House to assume the jurisdiction. From this petition the subject was referred to a committee, and this committee have reported a bill, and a bill well discussed and well matured in its detail. To refuse this bill from a diversity of sentiment, would be to insult the committee, and to insult the people of the Territory. If the gentleman wishes to please the people, why does he not suffer the consideration of the bill to proceed, and afford his aid in making it what he supposes their desires would concur in? Perhaps the gentleman has not read the bill. Mr. R. said, if he had not, how was he to know whether it was good or bad? Something must be done. He wished to get at that something, but was precluded by the motion. It certainly became the gentleman to show how this bill would operate injuriously upon the people, as a reason for his motion. Disfranchisement, to be sure, had been mentioned as the result of this bill; but how was the House to know that would be its tendency, except by going into its investigation?

Mr. CRAIK, also, considered this order of the House as the most unfair one among the rules of the House. However, it must be permitted while the order continued. The gentleman had said the people were in a state of vassalage; how was this declaration to be refuted, if the order of the House forbade the investigation into the application of this bill to the liberties of the people? The gentleman further said, that the people did not desire this assumption of jurisdiction. Were he, Mr. C. said, to give an opinion upon the subject, it would be drawn from the same source with that expressed by the gentleman, but of a very different import. He should say, as far as his knowledge of their sentiments extended, and he professed to be pretty well acquainted with their ideas upon this subject, that their feelings, their interests, and their desires conspired to encourage the assumption, and to prevent the postponement of the subject. As the immediate representative of a large proportion of them, he could say that much uncertainty and disquiet convulsed the minds of many good and wise men among them; that their present uncertainty was truly deplorable; that serious doubts existed with judicious men how far the grants and acceptance of lands, or of their papers, afforded them security for value received; doubts existed, in all their acts of negotiation, whether their respective State laws held any government over them? And this state of insecurity as to their property, could not fail to have an injurious effect. They doubted whether all other jurisdiction did not immediately cease, upon the removal of Congress to the District; and should Congress break up without assuming the jurisdiction, and taking other suitable measures to fix the Government, it would not fail to paralyze every exertion and effort toward a successful establishment. No man at present can assure himself of the right by which he holds his property, or remove his apprehensions. They now called loudly upon the National Government to remove from them this state of doubt and uncertainty; this is the object of the bill before the House; by this bill, a variety of inconveniences are removed, and the Government use their effort to make their situation at least more certain; and, he had no doubt, more safe and desirable. This it was incumbent on the Government to do; and this, he trusted, a majority of the House would be disposed to do soon. If the objects or provisions of the bill did not meet that gentleman's desires, he wished an opportunity to hear the objections, to enable him, as far as in his power, to remove them.

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Mr. SMILIE was proceeding to show that, at any rate, such a bill as the present ought not to pass, when

The SPEAKER interrupted him, saying that any arguments that went to show that the third day of March was a more proper time than the present for this bill to pass would only be in order.

Mr. SMILIE continued to show the impropriety of the bill, and the inevitable injuries that must be sustained by it, when he was again reminded of the question of order.

Mr. S. proceeded: that it might be the wish of some of the people, he would not say; but he denied that such a wish had been expressed, and therefore it ought not to be considered as correct. As to the question of doubt on the minds of the people, whether or not they held their property secure, not being certain of the existence of their former State laws, he referred to the acts of cession, passed by the States of Maryland and Virginia respectively, the words of which were, that the laws remained in force "until Congress shall by law otherwise provide." Under this express provision, the cession was made by the two States; and by this provision the Government of the United States accepted the grant of the ten miles square. And, therefore, until Congress by law should accept of the jurisdiction and nullify the laws of those States over the District, there could be no doubt but they remained in full force, and property was held as secure under those laws as ever. As he had before observed, he contended that an act of incorporation could be obtained for the city of Washington without this bill. From all these grounds, he believed the bill to be at present unnecessary.

Mr. H. LEE did not wonder at this opposition, considering the quarter from whence it came; perhaps, he said, if he had come from Pennsylvania, the idea of losing the General Government might instigate him to wish to give the stabbing blow to every act which should go to the establishing of that Government in another place. But, he trusted, as these local reasons could

not influence gentlemen from other States, they would not concur in his arguments. He trusted other gentlemen would lay to their hands and join to make this District a settled Government, and go into the examination of the principles proposed to accomplish that measure. He hoped not merely words of kindness escaping from the lips of gentlemen, would be deemed by them sufficient, but that their efforts would be used to produce a well-digested and valuable government, for the security of their civil and political rights.

With respect to the act of cession, he contended that the solemn injunctions of the constitution were detailed in words upon which the most critical could not find wherewith to hang a doubt. There the Congress of the United States were enjoined to "exercise exclusive jurisdiction." When was this jurisdiction to commence but at the period when the General Government should occupy it? Was not, then, this spot become the permanent seat of the Government of the Union? Were not the different departments, Executive, Legislative, and Judicial, assembled, according to the constitution, in this District? How, then, could the respective States of Virginia and Maryland a moment longer possess the jurisdiction? It was completely done away, and nothing was now wanting to remove the miserable state of suspense the people now felt, but the declaration of the Government that this was the case; that moment would all their fears be appeased. As a friend to those people, then, as much as that gentleman could be, he hoped an opportunity would be given to examine the bill, not doubting but it would be made to meet the wishes, as he was assured it would be the interest of the people to be governed by it.

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Mr. MACON said the motion was perfectly in order, and explained some of the cases for which it was established, as a rule of the House. As to the jurisdiction being assumed by the removal of Congress here, as the gentleman last up had said, were that the case, not only by this bill would it be assumed, but the acts of the two States must have ceased from the day Congress first sat here; a deduction by no means supported. The only evidence the House had of the desire of the people to come specially under the National Government, was a petition from Alexandria, except that the gentleman from the District had learned so among his friends. But did that express the will or wishes of the inhabitants of the surrounding country.

As he believed the laws of the States to be in full force; as he believed they would remain so until otherwise enacted by Congress, and as postponing the bill till the third of March would afford the people a large time to reflect on the subject, and express their will more generally, he hoped the postponement would take place. He would remind the House that this measure once taken, could not be undone; and, therefore, prudence would dictate that time should be taken to do it well. The act could not be repealed without amending the constitution. If the gentleman only calculated upon an opposition from Pennsylvania, he was mistaken. Mr. M. presumed that he could not be supposed to have local attachments, residing very far from the former, or the present seat of Government; he was, notwithstanding, opposed to taking up this subject at present, and even during the present session. The delay of acceptance could not displease the inhabitants, if they were satisfied as to the present jurisdiction, which did not, in his opinion, admit of a doubt. It was impossible that the postponement could be attended with any inconvenience; they had been in the same situation for ten years, and wherein could be the inconvenience of their remaining so? Nay, there must be advantages in their usages and customs being continued to them. He wished this matter to be postponed till another session.

Mr. BIRD never could suppose that the members of the Legislature would be satisfied with their removal from a place of accommodation to a wilderness, and with subjecting themselves to the inconveniences of this place, without exercising all the powers intrusted to them, and taking the jurisdiction to the Government, the members and subordinates of which were to subject themselves to the code of laws under which they should place themselves. A motion, therefore, to continue the jurisdiction out of the hands of the Government, much surprised him. All the arguments used by the gentleman in favor of a postponement, would operate fully to the entire abandonment of the subject; and did he suppose that all the expense attending the removal of the whole Government, all the inconvenience experienced, would be, or ought to be, borne without the enjoyment of that constitutional right, nay, injunction, of "exclusive legislation?" What could have been the reason why Congress was to assume this exclusive legislation? Did not the members of the convention know that a great quantity of public treasure would be drawn together into this place? Did they not suppose it of importance to secure the privileges and rights of foreign ministers, who would necessarily be brought to reside in this District? Did they not consider the number of persons attached to the Government worthy of the special regard of the national Legislature? Could any gentleman conceive that these were not too great powers to be intrusted to any State whatever? Else why was the provision for exclusive jurisdiction made? To avoid putting those powers into execution, he firmly believed, would be omitting a great and important duty. But, were it not for the words of the constitution, the words of the acts of cession made by the States were as ample upon the subject as one sovereign power in the act of granting, and another sovereign power in the act of receiving a cession, could make. This was precisely the case; the two States made a full and complete cession of the jurisdiction to the General Government, upon the terms of the constitution, which were to "exercise exclusive legislation, in all cases whatever, over such District," which had, by the cession of those particular States, and the acceptance of Congress, become the seat of the Government of the United States. How, he would ask gentlemen, could this be granted, and yet retained? It was absurd to suppose a man could grant a piece of land, and by the same instrument retain it.

But suppose this was a doubtful subject, whether or not the laws of the two States were in force in the District; would the gentleman still wish to leave it in doubt? Surely no new laws could be made by those States to affect this district, actually made the seat of Government, and he

contended that none of the laws whatever did exist here, and that the power of the civil officers actually had ceased; it therefore required no painting to show that the state of the place was truly deplorable. Would the gentleman yet wish to leave the District without laws, and merely lest it should take away their suffrage? That the people could not be represented in the General Government, Mr. B. admitted. But where was the blame, if any could attach? Certainly not to the men who made the act of cession; not to those who accepted it. It was to the men who framed the constitutional provision, who peculiarly set apart this as a District under the national safeguard and Government. But, he contended, there was no injury sustained. What less compensation than the particular legislation of this District could be required for the removal of the Government, whereby in these almost uninhabited woods the beginnings of a rich and prosperous city was commenced, and made the capital of the United States?

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The motion for postponement was withdrawn without a question being taken, and the House resolved itself into a Committee of the Whole on the bill. Mr. SMILIE moved to strike out the first section of the bill.

Mr. SMILIE said he would willingly give the reasons which prompted him to make the motion, and he hoped the gentleman would as freely make his reply. If it could be proved to him that the rights of these people could be reserved by the passage of the bill, it would give him pleasure, but, believing it to be impossible, he wished to destroy the bill. It could not be denied but that the people of this District were precisely in the same situation at present which they always had been, and subject to the same laws, but would it be so when the Government once accepted the cession? It would not. Not a man in the District would be represented in the Government, whereas every man who contributed to the support of a government ought to be represented in it, otherwise his natural rights were subverted, and he left, not a citizen, but a subject. This was one right the bill deprived these people of, and he had always been taught to believe it was a very serious and important one. It was a right which this country, when under subjection to Great Britain, thought worth making a resolute struggle for, and evinced a determination to perish rather than not enjoy.

Another, and an important right, of which those people were about to be deprived, was, that their Judges and their Governor were not to be the choice of themselves, but of the President. The privilege of a local Legislature might be given to the people, but of what avail could they be if the Governor appointed by the President could deprive them of every act they might make by his negative? Where was their security if the acts of these Representatives of the people could be tomorrow revoked by a power deriving authority from elsewhere? Much as gentlemen might talk about dignity of government, nothing, he thought, would more comport with true dignity than liberty, and without it dignity of government was not worth a name. It surely must be disagreeable for the Government to be in the midst of a people who are deprived of their rights, and what insecurity there ever had been, or ever would be, to the Government, from its residence under the laws of the States, he could not conceive. He had never known of any. If he could be convinced that the people would not be deprived of these rights, among others, he would agree to some such bill as this.

Mr. DENNIS acknowledged that had he the same impressions as the member who had just sat down, he would not hesitate for a moment to believe that liberty had been forced to yield to a reign of absolute slavery. But from a consideration of the interests of the people, of the dignity of the Government, and of the seat of the Congress, together with the reflections of the gentleman who had just resumed his seat, he felt himself called upon to make some observations by way of an answer.

As to the interests of the people, could it for a moment be doubted that a local government, a judiciary, and a legislature, would be highly advantageous? Could any man doubt but it would be more convenient and advantageous for the inhabitants to attend the courts in this place than to be taken away to Richmond or to Annapolis? It had been always an approved privilege that justice should be brought home to every man's door, and where could it be more so than by the establishment of a judiciary, especially for this District? Nor were the advantages less, he contended, in the legislative department. If a ready communication with their representatives was desirable to the people, by the residence and sitting of the representatives of this District being within itself, the communication was easy, and the rights of the people in their local concerns more attainable, surely, than though they had to go to Richmond or to Annapolis. But, taking a more comprehensive view of the subject, Mr. D. asked if the general interests of the District would not be more secured by persons immediately acquainted and concerned, than by persons of different States, and at a distance from the place? One or two representatives to each legislature would be the utmost that the District could send, and these placed among men of different interests, what could be expected compared to a body such as is prescribed by this bill, drawn from among the people themselves? In these legislatures, the numerous local circumstances which must call for attention in a newly planted and rapidly growing capital, never can receive due attention. Every person must know that a great proportion of business must arise from a commercial city. From observation he could say that about one-third of the business of the Legislature of Maryland usually arose from Baltimore alone. As this city, therefore, grew in population and in trade, the demand for legislative attention would increase, and either its interests must be neglected, or the sitting of the State legislatures must be protracted too far. Besides this, experience must have taught gentlemen that numerous bodies could not so well attend to the minute advantages of a place like this as small bodies, and particularly such as well knew its situation and circumstances.

It had been said that these people were happy. Mr. D. admitted it; but a change of circumstances



made an inevitable difference, and required a different mode of legislating. This District of the General Government, being a part of two States, must require an alteration from its former government. Surely the organization of a local body must be more advantageous than any modifications which could be made by those two Legislatures. So far from a rule of despotism then being over these people, he thought the passing of this bill would much increase their prosperity. It was said that, by the assumption of the jurisdiction, these people would ask how much they were heretofore represented in the two Legislatures to which they sent delegates. They were so in name, but very little in essence, from the comparatively small number they could send to the Legislatures. But the arguments went as much against the assumption at any future time as at present. That it would be some time taken up there could be no doubt. It ought therefore to be recollected, that if it would ever be proper, a period more unfavorable to the interests of the people might be selected than the present, and therefore the present moment ought to be accepted, and especially so, as he believed the people were desirous of it, and were satisfied with the features of the bill. From their contiguity to, and residence among the members of the General Government, they knew, that though they might not be represented in the national body, their voice would be heard. But if it should be necessary, the constitution might be so altered as to give them a delegate to the General Legislature when their numbers should become sufficient. Upon the whole, he could see no measures which would more immediately promote the interests of the people of this district, and give stability to their minds, and to their concerns with each other, than the present bill and, therefore, he hoped the section would remain.

Mr. MACON said, he could see no such immediate necessity for this law. A gentleman had told the committee it was necessary because the States did not pay regard to it. Mr. M. supposed the same attention was paid to this district as usual, and the same as was paid to any other particular part. He believed their political and local rights were as perfectly secure without this bill as any other part of those States, and if the object of gentlemen was to make it better or worse, he should be opposed to it. Before the least change from their former situation, some inconveniences ought to be mentioned under which they labored, and this had not been done, more than mere conjecture and surmises had engendered. Most assuredly there ought to be some good ground for this assumption, because it was not merely a common act of the Legislature, which could be repealed or amended as soon as passed. It was an act of a nature that could not be essentially altered without an alteration in the constitution, because if the assumption was once accepted, it could not be parted with.

It would be so far from advantageous to the city of Washington, Mr. M. said, that it must essentially injure it. On one side of the water was Alexandria, a populous town; on the other side was Georgetown. Would not these two give to the legislature a majority? And if so, a more palpable evil could not be put upon the city than by putting it in with more numerous towns whose interests would ever be opposed to the growth of the city. There would inevitably be an Alexandria interest, a Georgetown interest, and a city interest, and those struggling with each other.

It was said to be inconvenient to be represented at a distance, from the want of an easy communication. How could this be? What was more easy than for letters and instructions to be sent by post? The communication was easy from all parts of the United States to Congress, and could be equally so to any place where the post goes. There could be no doubt but the States would pay as much attention to the interests of this District, if it continued under their jurisdiction, as ever had been done, and more: by not suffering it to endure any injury which it could prevent, Congress should immediately take the jurisdiction. The language and meaning of gentlemen could be well understood. Gentlemen were called to support the measure with energy, while they had strength. No doubt this was the principal ground of their endeavors to push the measure, although the Legislature had but just met here, and there had been scarce time to know what would be the proper regulations to adopt. But he wished to remind them, that although the law might be passed, the time would not be far off when his friends would be in the minority, and some considerable alterations might be made in it.

Mr. M. then proceeded to the details of the bill. He disliked the establishment of a government, the executive and judiciary of which were in the appointment of the President of the United States, the former for three years and the latter during good behavior: and these, both governor and judges of the superior and inferior courts, to be paid out of the Treasury of the United States. Could it be the wish of the gentleman, he asked, to establish in the very heart of the United States, and immediately under the eye of the Government, such a principle as that these rulers should be independent and entirely above the control of the people? He declared that if he should be in Congress again, and as long as he ever should be in the House, he should constantly make it his duty to exert himself for the repeal of so bad a principle, and leave the governor, the judges, and the Legislature, immediately amenable to the people. Another thing he should also be ever opposed to, was the manner of this House of Representatives and Senate being chosen, and the time of their continuance. Why should they be elected here for two years, when in all the State Legislatures, he believed they were chosen annually, except two, in one of which they were elected every six months, and in the other, every two years. A greater absurdity still was evinced in the time for which, and the manner how the Senators were chosen—six years, and by electors. Although in these things there was a similarity to the choice of the General Government, he would ask what similarity there could be in the two Governments? In the one there is a vast extent of country and a numerous population; in the other, a small population, a small tract of country, and an almost general knowledge by every one of every individual in it. He doubted whether the Legislature of the Union could at all delegate powers to this local government; but whether or not, he could see no kind of necessity during the present session to assume them. The

Government would go on as well as before, and he had no doubt the city would continue in that rapid state of prosperity gentlemen had witnessed since they arrived here.

The committee rose without taking a question, and had leave to sit again.

### **TUESDAY, February 3.**

A new member, to wit, JOHN STEWART, returned to serve as a member of this House for the State of Pennsylvania, in the room of Thomas Hartley, deceased, appeared, produced his credentials, was qualified, and took his seat in the House.

#### ***District of Columbia.***

The House resolved itself into a Committee of the Whole on the bill for the government of the District of Columbia, when the question was taken on the motion made yesterday, for striking out the first section, and negatived, ten members only rising for it.

Mr. GREGG then proposed an amendment to the first section, the object of which was to make the election of representatives annual, instead of biennial as contemplated by the bill. This motion brought on a lengthy discussion, being supported by Messrs. J. SMITH, CLAIBORNE, NICHOLAS, GALLATIN, and MACON; and opposed by Messrs. CRAIK, HARPER, BAYARD, H. LEE, THOMAS, and DENNIS. On the question for agreeing to the motion, it was determined in the negative—48 voting for it and 50 against it.

A motion was then made by Mr. CLAIBORNE, so to amend the first section as to extend the privilege of voting to persons who are not freeholders; that privilege being confined by the bill to freeholders exclusively. This motion brought on a short debate, in which Messrs. KITCHELL, NICHOLSON, SMITH, MACON, TAZEWEEL, and NICHOLAS supported the motion, and Messrs. HARPER, CRAIK, DENNIS, and GALLATIN, opposed it. On the question that the House do agree to the motion, it was determined in the negative, there being 48 votes for, and 50 against it.

### **WEDNESDAY, February 4.**

#### ***District of Columbia.***

The House resolved itself into a Committee of the Whole on the bill for the government of the District of Columbia.

A motion was made by Mr. GALLATIN to amend the first section of the bill, so as to extend the privilege of voting for representatives to persons other than freeholders, who are possessed of property in the District to the value of eighty dollars.

Mr. HARPER proposed an amendment to the foregoing amendment, that a citizen, not being a freeholder, in order to qualify him as an elector, must be a housekeeper, and possessed of property of the value of one hundred dollars, to be ascertained by the record of the last assessment next preceding the period of offering his vote.

Mr. GALLATIN'S amendment was withdrawn, and Mr. HARPER'S, which, though offered as an amendment, was a complete substitute for it, was adopted.

Mr. CLAIBORNE proposed as an amendment to this same section, to reduce the term of a Senator continuing in office from six to three years.

The motion was negatived.

Mr. TAZEWEEL moved to strike out the Senate altogether, on the ground that Congress, having the revision of all laws that may be passed for the territory, and the power of rejecting such as they did not approve, would be a sufficient check on the Representatives without a Senate.

This motion was negatived.

Mr. MACON moved as an amendment, that the Senators should be elected immediately by the people, and not by electors, as proposed by the bill.

This motion was also lost.

A motion was made by Mr. NICHOLSON, that the electors should not be permitted to choose themselves as Senators.

This motion was adopted.

The committee rose, reported progress, and asked leave to sit again.

### **FRIDAY, February 6.**

A new member, to wit, LEVI LINCOLN, returned to serve in this House as a member from Massachusetts, in the room of Dwight Foster, elected a Senator of the United States, appeared, produced his credentials, and took his seat in the House.

#### ***Rules for Election of President.***

Mr. RUTLEDGE, from the committee appointed, on the second instant, to prepare and report such rules as, in their opinion, are proper to be adopted by this House to be observed in the choice of a

President of the United States, made a report; which was read.

[See *post*, Monday 9th, as amended.]

## MONDAY, February 9.

*Ordered*, That the Committee of Claims, to whom was referred, on the thirtieth ultimo, the memorial of sundry clerks employed in the different departments, be discharged from the further consideration thereof, and that the same be referred to the Committee of Revisal and Unfinished Business.

Mr. RUTLEDGE, from the committee appointed on the part of this House, jointly, with the committee on the part of the Senate, to ascertain and report a mode of examining the votes given for President and Vice President of the United States; of notifying the persons elected of their election, and the time, place, and manner of administering the oath of office to the President, reported that the committee had taken the subject referred to them under consideration, but had come to no agreement thereupon.

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A message from the Senate, informed the House that the Senate would be ready to receive the House in the Senate Chamber, on Wednesday next, at twelve o'clock, for the purpose of being present at the opening and counting of the votes for President of the United States; and that the Senate have appointed a teller on their part, to make a list of the votes for President of the United States as they shall be declared.

### *Rules for Election of President.*

The House proceeded to consider the report made on Friday last, from the committee appointed to prepare and report rules proper to be observed in the choice of a President of the United States: Whereupon,

*Ordered*, That the said report be committed to a Committee of the whole House immediately.

The House, accordingly, resolved itself into a Committee of the Whole on the said report; and, after some time spent therein, the Chairman reported that the committee had had the said report under consideration, and directed him to report to the House their agreement to the same, with an amendment; which he delivered in at the Clerk's table, where the same was read. The House then proceeded to consider the report: Whereupon, the amendment reported from the Committee of the whole House to the said report, was, on the question put thereupon, agreed to by the House.

A motion was then made and seconded that the House do disagree with the Committee of the whole House in their agreement to the fourth rule contained in the said report, in the words following, to wit:

"4th. After commencing the balloting for President, the House shall not adjourn until a choice is made:"

And, the question being taken thereupon, it passed in the negative—yeas 47, nays 53.

A motion was then made and seconded that the House do disagree with the Committee of the whole House in their agreement to the fifth rule contained in the said report, in the words following, to wit:

"5th. The doors of the House shall be closed during the balloting, except against the officers of the House:"

And, the question being taken thereupon, it passed in the negative—yeas 45, nays 54.

*Resolved*, That this House doth agree with the Committee of the whole House in their agreement to the said report, as amended, in the words following, to wit:

"That the following rules be observed in the choice by the House of Representatives of a President of the United States, whose term is to commence on the fourth day of March next.

"1st. In the event of its appearing, upon the counting and ascertaining of the votes given for President and Vice President, according to the mode prescribed by the constitution, that no person has a constitutional majority, and the same shall have been duly declared and entered on the journals of this House, the Speaker, accompanied by the members of the House, shall return to their Chamber.

"2d. Seats shall be provided in this House for the President and members of the Senate; and notification of the same shall be made to the Senate.

"3d. The House, on their return from the Senate Chamber, it being ascertained that the constitutional number of States were present, shall immediately proceed to choose one of the persons from whom the choice is to be made for President; and in case upon the first ballot there shall not appear to be a majority of the States in favor of one of them, in such case the House shall continue to ballot for a President, without interruption by other business, until it shall appear that a President is duly chosen.

"4th. After commencing the balloting for President, the House shall not adjourn until a choice be made.

"5th. The doors of the House shall be closed during the balloting, except against the officers of the House.

"6th. In balloting, the following mode shall be observed, to wit: The representatives of the respective States shall be so seated that the delegation of each State shall be together. The representatives of each State shall, in the first instance, ballot among themselves, in order to ascertain the votes of the State; and it shall be allowed, where deemed necessary by the delegation, to name one or more persons of the representation, to be tellers of the ballots. After the vote of each State is ascertained, duplicates thereof shall be made; and in case the vote of the State be for one person, then the name of that person shall be written on each of the duplicates; and in case the ballots of the State be equally divided, then the word "*divided*" shall be written on each duplicate, and the said duplicates shall be deposited in manner hereafter prescribed, in boxes to be provided. That, for the conveniently taking the ballots of the several representatives of the respective States, there be sixteen ballot boxes provided; and that there be, additionally, two boxes provided for the purpose of receiving the votes of the States; that after the delegation of each State shall have ascertained the vote of the State, the Sergeant-at-Arms shall carry to the respective delegations the two ballot boxes, and the delegation of each State, in the presence and subject to the examination of all the members of the delegation, shall deposit a duplicate of the vote of the State in each ballot box; and where there is more than one representative of a State, the duplicates shall not both be deposited by the same person. When the votes of the States are all thus taken in, the Sergeant-at-Arms shall carry one of the general ballot boxes to one table, and the other to a second and separate table. Sixteen members shall then be appointed as tellers of the ballots; one of whom shall be taken from each State, and be nominated by the delegation of the State from which he was taken. The said tellers shall be divided into two equal sets, according to such agreement as shall be made among themselves; and one of the said sets of tellers shall proceed to count the votes in one of the said boxes, and the other set the votes in the other box; and in the event of no appointment of teller by any delegation, the Speaker shall in such case appoint. When the votes of the States are counted by the respective sets of tellers, the result shall be reported to the House; and if the reports agree, the same shall be accepted as the true votes of the States; but if the reports disagree, the States shall immediately proceed to a new ballot, in manner aforesaid.

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"7th. If either of the persons voted for, shall have a majority of the votes of all the States, the Speaker shall declare the same; and official notice thereof shall be immediately given to the President of the United States, and to the Senate.

"8th. All questions which shall arise after the balloting commences, and which shall be decided by the House voting *per capita* to be incidental to the power of choosing the President, and which shall require the decision of the House, shall be decided by States, and without debate; and in case of an equal division of the votes of States, the question shall be lost."

## **TUESDAY, February 10.**

### ***Credentials of Members.***

Mr. DENT, from the standing Committee of Elections, made a report, which he delivered in at the Clerk's table, where the same was read, and is as follows:

"The Committee of Elections having examined the credentials of several members claiming seats in this House, report:

"That, by two certificates of the Governor of Massachusetts, under seal of the State, and dated the ninth day of January, one thousand eight hundred and one, it appears by one of the said certificates that Ebenezer Mattoon is duly elected to serve as a member of the House of Representatives of the United States, in the room of Samuel Lyman, stated therein to have resigned; and by the other certificate, that Levi Lincoln is duly elected as aforesaid, in the place of Dwight Foster, appointed a Senator of the United States.

"It appears, also, by a letter under the signature of the Governor of Pennsylvania, dated the twenty-first day of January, one thousand eight hundred and one, and addressed to the Speaker, accompanied by authenticated documents, that John Stewart is duly chosen, in the place of Thomas Hartley, deceased.

"The committee are of opinion that Ebenezer Mattoon is entitled to a seat, in the place of Samuel Lyman, resigned; Levi Lincoln, in the place of Dwight Foster, appointed a Senator of the United States; and John Stewart, in the place of Thomas Hartley, deceased."

### ***Election of President.***

*Resolved*, That this House will attend in the Chamber of the Senate on Wednesday next at twelve

o'clock, for the purpose of being present at the opening and counting of the votes for President and Vice President of the United States; that Mr. RUTLEDGE and Mr. NICHOLAS be appointed tellers, to act jointly with the teller appointed on the part of the Senate, to make a list of the votes for President and Vice President of the United States, 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, which shall be entered on the journals; and if it shall appear that a choice hath been made agreeably to the constitution, such entry on the journals shall be deemed a sufficient declaration thereof.

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

### WEDNESDAY, February 11.

On motion, it was

*Resolved*, That all letters and packets to JOHN ADAMS, now President of the United States, after the expiration of his term of office, and during his life, may be transmitted by post, free of postage.

*Ordered*, That a bill or bills be brought in pursuant to the said resolution; and that Mr. OTIS, Mr. THATCHER, and Mr. SHEPARD, be appointed a committee to prepare and bring in the same.

#### *Election of President.*

On this day, being the day by law appointed for counting the votes of the Electors of President and Vice President, there were present the following Representatives, respectively, that is to say:

*From New Hampshire.*—Abiel Foster, Jonathan Freeman, James Sheafe, and Samuel Tenney.

*From Massachusetts.*—Theodore Sedgwick (Speaker), John Read, Joseph P. Varnum, William Shepard, Peleg Wadsworth, Silas Lee, Lemuel Williams, George Thatcher, Bailey Bartlett, Phaniel Bishop, Harrison G. Otis, Nathan Read, Levi Lincoln, and Ebenezer Mattoon.

*From Connecticut.*—John Davenport, Roger Griswold, Samuel W. Dana, Chauncey Goodrich, Elizur Goodrich, William Edmond, and John C. Smith.

*From Vermont.*—Matthew Lyon, and Lewis R. Morris.

*From Rhode Island.*—Christopher G. Champlin, and John Brown.

*From New York.*—John Smith, Philip Van Cortlandt, Jonas Platt, Henry Glenn, John Thompson, Theodorus Bailey, John Bird, William Cooper, Lucas Elmendorph, and Edward Livingston.

*From New Jersey.*—James Linn, Aaron Kitchell, John Condit, James H. Imlay, and Franklin Davenport.

*From Pennsylvania.*—Robert Brown, Albert Gallatin, Andrew Gregg, John A. Hanna, Joseph Heister, John Wilkes Kittera, Michael Leib, Peter Muhlenberg, John Smilie, John Stewart, Richard Thomas, Robert Waln, and Henry Woods.

*From Delaware.*—James A. Bayard.

*From Maryland.*—John Chew Thomas, Samuel Smith, Gabriel Christie, William Craik, Joseph H. Nicholson, George Dent, George Baer, and John Dennis.

*From Virginia.*—Samuel J. Cabell, Matthew Clay, John Dawson, Joseph Eggleston, Thomas Evans, Samuel Goode, Edwin Gray, David Holmes, George Jackson, Henry Lee, Anthony New, John Nicholas, Robert Page, Josiah Parker, Leven Powell, John Randolph, Abram Trigg, John Trigg, and Lyttleton W. Tazewell.

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*From North Carolina.*—Willis Alston, Joseph Dickson, William Barry Grove, Archibald Henderson, William H. Hill, Nathaniel Macon, Richard Dobbs Spaight, Richard Stanford, David Stone, and Robert Williams.

*From South Carolina.*—Robert Goodloe Harper, Benjamin Huger, Abraham Nott, Thomas Pinckney, and John Rutledge.

*From Georgia.*—Benjamin Taliaferro.

*From Kentucky.*—John Fowler, and Thomas T. Davis.

*From Tennessee.*—William Charles Cole Claiborne.

Mr. SPEAKER, attended by the House, then went into the Senate Chamber, and took seats therein, when both Houses being assembled, Mr. RUTLEDGE and Mr. NICHOLAS, the tellers on the part of this House, together with Mr. WELLS, the teller on the part of the Senate, took seats at a table provided for them, in the front of the President of the Senate.

The PRESIDENT of the Senate, in the presence of both Houses, proceeded to open the certificates of the Electors of the several States, beginning with the State of New Hampshire; and as the votes were read, the tellers on the part of each House, counted and took lists of the same, which being compared, were delivered to the President of the Senate, and are as follows:

STATES.	Thomas Jefferson	Aaron Burr	John Adams	Charles C. Pinckney	John Jay.
New Hampshire -	-	6	6		

Massachusetts	-	-	16	16	
Rhode Island	-	-	4	3	1
Connecticut	-	-	9	9	
Vermont	-	-	4	4	
New York	12	12			
New Jersey	-	-	7	7	
Pennsylvania	8	8	7	7	
Delaware	-	-	3	3	
Maryland	5	5	5	5	
Virginia	21	21			
Kentucky	4	4			
North Carolina	8	8	4	4	
Tennessee	3	3			
South Carolina	8	8			
Georgia	4	4			
	—	—	—	—	—
	73	73	65	64	1

*Recapitulation of the Votes of the Electors.*

Thomas Jefferson,	73
Aaron Burr,	73
John Adams,	65
Charles Cotesworth Pinckney,	64
John Jay,	1

The PRESIDENT of the Senate, in pursuance of the duty enjoined upon him, announced the state of the votes to both Houses, and declared that THOMAS JEFFERSON of Virginia, and AARON BURR of New York, having the greatest number, and a majority of all the Electors appointed, and being equal, it remained for the House of Representatives to determine the choice.

The two Houses then separated; and the House of Representatives being returned to their Chamber, proceeded, in the manner prescribed by the constitution, to the choice of a President of the United States, and the following members were appointed tellers of the respective States, to examine ballots of each State, pursuant to the sixth rule adopted by the House on the ninth instant, to wit:

For the State of New Hampshire, Abiel Foster; Massachusetts, Harrison G. Otis; Rhode Island, Christopher G. Champlin; Connecticut, Roger Griswold; Vermont, Lewis R. Morris; New York, Theodorus Bailey; New Jersey, James Linn; Pennsylvania, Albert Gallatin; Delaware, James A. Bayard; Maryland, George Dent; Virginia, Lyttleton W. Tazewell; North Carolina, Nathaniel Macon; South Carolina, Thomas Pinckney; Georgia, Benjamin Taliaferro; Kentucky, John Fowler; Tennessee, William Charles Cole Claiborne.

The members of the respective States then proceeded to ballot, in the manner prescribed by the rule aforesaid, and the tellers appointed by the States, respectively, having put duplicates of their votes into the general ballot boxes prepared for the purpose, the votes contained therein were taken out and counted, and the result being reported to the SPEAKER, he declared to the House that the votes of eight States had been given for THOMAS JEFFERSON, of Virginia; the votes of six States for AARON BURR, of New York; and that the votes of two States were divided.

The constitution of the United States requiring that the votes of nine States should be necessary to constitute a choice of President of the United States, a motion was made and seconded, that the ballot for the President be repeated in one hour; and, the question being taken by States, it passed in the negative.

The States then proceeded, in the manner aforesaid, to a second ballot; and, upon examination of the ballot boxes, it appeared that the votes of eight States had been given for THOMAS JEFFERSON, of Virginia; and the votes of six States for AARON BURR, of New York; and that the votes of two States were divided.

The States then proceeded in like manner to a third ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a fourth ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a fifth ballot; and, upon examination thereof, the result was declared to be the same.

The States then proceeded in like manner to a sixth ballot; and, upon examination thereof, the result was declared to be the same.

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The States then proceeded in like manner to a seventh ballot; and, upon examination thereof, the result was declared to be the same.

A motion was then made and seconded, that the States proceed again to ballot in one hour; and, the question being taken thereupon, it was resolved in the affirmative—the votes of the States being ayes 12, noes 4.

The time agreed upon by the last-mentioned vote being expired, the States proceeded, in manner aforesaid, to the eighth ballot; and, upon examination thereof, the result was declared to be the same, to wit:

The votes of eight States for THOMAS JEFFERSON, of Virginia; the votes of six States for AARON BURR, of New York; and the votes of two States were divided.

The States then proceeded to a ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth ballots; and, upon examination of the ballots, respectively, the result was declared to be the same.

A motion was then made and seconded, that the States proceed again to ballot at ten o'clock; and the question being taken thereupon, it passed in the negative—the votes of the States being ayes 7, noes 9.

*Ordered*, That the next ballot be repeated at nine o'clock, and not before.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the sixteenth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated in one hour.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the seventeenth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at eleven o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the eighteenth ballot; and upon examination thereof, the result was declared to be the same.

A motion was then made and seconded, that the ballot be repeated to-morrow at eleven o'clock and not before.

The question being taken thereupon, it passed in the negative.

*Ordered*, That the ballot be repeated at twelve o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the nineteenth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated in one hour.

### **FEBRUARY 12, 1 o'clock, A.M.**

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twentieth ballot; and, upon the examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at two o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-first ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at half after two o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-second ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at four o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-third ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at five o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-fourth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at six o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-fifth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at seven o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-sixth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at eight o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-seventh ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at twelve o'clock, and not before.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-eighth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated to-morrow at eleven o'clock, and not before.

### **FEBRUARY 13.**

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The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the twenty-ninth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated to-morrow at twelve o'clock, and not before.

### **FEBRUARY 14.**

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirtieth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at one o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-first ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at two o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-second ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at three o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-third ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated on Monday next at twelve o'clock, and not before.

### **FEBRUARY 16.**

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-fourth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated to-morrow at twelve o'clock, and not before.

### **FEBRUARY 17.**

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-fifth ballot; and, upon examination thereof, the result was declared to be the same.

*Ordered*, That the ballot be repeated at one o'clock.

The time agreed upon by the last-mentioned vote being expired, the States proceeded in manner aforesaid to the thirty-sixth ballot; and, upon examination thereof, and the result being reported by the tellers to the SPEAKER, the SPEAKER declared to the House that the votes of ten States had been given for THOMAS JEFFERSON, of Virginia; the votes of four States for AARON BURR, of New York; and that the votes of two States had been given in blank; and, that, consequently, THOMAS JEFFERSON, of Virginia, had been, agreeably to the constitution, elected President of the United States, for the term of four years, commencing on the fourth day of March next.<sup>[60]</sup>

*Ordered*, That Mr. PINCKNEY, Mr. TAZEWELL, and Mr. BAYARD, be appointed a committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him that THOMAS JEFFERSON is elected President of the United States, for the term commencing on the fourth day of March next.

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*Ordered*, That a message be sent to the Senate to inform them that THOMAS JEFFERSON has been duly elected President of the United States, for the term of four years commencing on the fourth day of March next; and that the Clerk of this House do go with the said message.

### **THURSDAY, February 19.**

#### ***State Balances.***



Mr. HILL, from the committee appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances which, by the Commissioners appointed to settle the accounts between the United States and the several States, were reported to be due from several of the States to the United States, now made a report, accompanied by a bill to extinguish the claims of the United States, for certain balances reported to be due from several of the States to the United States; which was read, and the consideration of the said report and bill postponed until the third day of March next.

The report is as follows:

The committee appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances which, by the Commissioners appointed to settle the accounts between the United States and the several States, were reported to be due from several of the States to the United States, report—

That the Commissioners aforesaid, on the liquidation of the accounts, reported that there were due from several of the States certain balances, that is to say:

New York	\$2,074,846
Pennsylvania	76,709
Delaware	612,428
Maryland	151,430
Virginia	100,879
North Carolina	501,082

That Congress by an act passed the 15th February, 1799, engaged that any State so reported against might discharge itself from the claim, by an engagement in the form of a legislative act, to be passed before the first of April, 1800, to pay at the Treasury of the United States, within five years, the amount of the sum assumed by the United States in the debt of such State; or by expending moneys to the like amount within the time aforesaid in the erection of fortifications. And the said act of Congress provides further, that any payment or expenditure aforesaid shall be credited at the Treasury to the amount of stock which said payment or expenditure is equal to the purchase of at the market prices of stock. That the State of New York passed, within the time limited, the Legislative act required by the act of Congress aforesaid, and has already received credit at the Treasury for the sum of \$222,810 06, for having previously expended in fortifications the sum of \$136,533 82. That no other State has acceded to the terms offered by the said act of Congress.

The committee further report, that, by the immediate operation of the said act of Congress, and of the Legislature of the State of New York, that State was exonerated and released from a very considerable part of the balance reported, to wit, the sum of \$891,129 31, the balance reported against the State being to that amount more than the sum subscribed on the assumption of the United States in the debt of that State, the sum so subscribed amounts to \$1,183,716 69; that the sum of \$891,129 31, exceeds the whole amount of the balance reported to be due from any one of the States, and the aggregate amount of the whole of the balances, with the exception of the balance reported to be due from the State of Delaware.

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The committee, without entering into a discussion of the principles whereon the settlement of the accounts by the Commissioners was founded, remark, that as none of the States but the State of New York have manifested any disposition to pay the balances reported against them, whether the terms offered by the said act of Congress operate favorably or not, and none of them have assented to the justice or equity of the claim of the United States, and no means exist of exacting payment, it seems unwise to keep alive a claim which cannot be enforced, and may have the effect of producing irritation and exciting discontent; and as the act of Congress has already released the State of New York from so large an amount and enabled that State, with ease and advantage, to discharge the residue of the balance reported to be due from that State, the committee are of opinion that a release of the balances due from the other States is expedient, and for this purpose report a bill, which is submitted.

## **SATURDAY, February 21.**

### ***President Elect.***

Mr. PINCKNEY, from the committee instructed on the eighteenth instant to wait on the PRESIDENT elect, to notify him of his election, reported that the committee had performed that service, and addressed the PRESIDENT elect in the following words, to wit:

"The committee beg leave to express their wishes for the prosperity of your Administration; and their sincere desire that it may promote your own happiness and the welfare of our country."

To which the PRESIDENT elect was pleased to make the following reply:

"I receive, gentlemen, with profound thankfulness, this testimony of confidence from the great Representative Council of our nation: it fills up the measure of that grateful satisfaction which had already been derived from the suffrages of my fellow-citizens themselves, designating me as one of those to whom they were willing to commit this charge, the most important of all others to them. In deciding between the candidates, whom their equal vote presented to your choice, I am sensible that age has been respected rather than more active and useful qualifications.

"I know the difficulties of the station to which I am called, and feel, and acknowledge, my incompetence to them: But, whatsoever of understanding, whatsoever of diligence, whatsoever of justice, or of affectionate concern for the happiness of man, it has pleased Providence to place within the compass of my faculties, shall be called forth for the discharge of the duties confided to me, and for procuring to my fellow-citizens all the benefits which our constitution has placed under the guardianship of the General Government.

"Guided by the wisdom and patriotism of those to whom it belongs to express the Legislative will of the nation, I will give to that will a faithful execution.

"I pray you, gentlemen, to convey to the honorable body from which you are deputed, the homage of my humble acknowledgments, and the sentiments of zeal and fidelity by which I shall endeavor to merit these proofs of confidence from the nation, and its representatives; and accept, yourselves, my particular thanks for the obliging terms in which you have been pleased to communicate their will.

"THOMAS JEFFERSON.

"FEBRUARY 20, 1801."

### ***Sedition Act.***

The House then went into a Committee of the Whole, on the bill to repeal part of an act, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" and to continue in force the residue of the same.

On the question that the said bill be engrossed for a third reading—

Mr. DAWSON said, when the law which this bill was intended to continue was first passed, I gave to it my dissent; I did it from a conviction on my mind that it does violate that constitution which I have sworn to support, and from a persuasion that the then state of things did not require it: that while it begat an unjust suspicion of the American character, it was a stain on our code of legislation.

If these were my impressions at that time, some reflection since, aided by the productions of men whose names and talents will be long remembered, and a knowledge of the sentiments of the State from which I come, and of the people whom I represent, have confirmed those impressions, and have resolved me to vote against that bill in every shape and in every stage, and I hope that it will not be suffered to be engrossed. Sir, it is well remembered by me, nor can it be forgotten by any gentleman, on what grounds this law was advocated and first passed; it was then supported and pressed upon us as a necessary link in a chain of measures which a majority of the two Houses of Congress thought proper to adopt to meet a particular crisis—to guard against the supposed intrigues of a foreign nation—to give respectability and energy to our Executive—to prevent its falling into disrepute with the people, and to punish factious individuals. The history of the last two years has, I am persuaded, convinced gentlemen how mistaken were their opinions of the American character. With me they must now believe that whatever difference there may be in our political principles, when the safety, freedom, or honor of our country is threatened by a foreign nation, like a band of brothers we will rally round our government, and support it by means which the constitution of our country authorizes, and which the energy of the case may require. How far this law has given respectability or energy to our administration I will not pretend to say; the events of the present day are an ample comment on that point; but, after the experience which we have had, since some of the objects for which it was formed do not exist, and others have not been answered, I did hope that no attempt would have been made to continue it, and that it would have been suffered to expire like its twin-brother, the Alien law. In this hope, however, I have been disappointed; gentlemen have come forward and supported it with a zeal, not uncommon to them on other occasions, and unexpected in the present, when we were taught to believe that they were at least indifferent about it, and new reasons have been assigned for its continuance—formerly it was thought necessary to protect the administration against the people; and now, sir, it is wanted to guard individuals against an administration which may be weak or wicked. Experience has, I am persuaded, convinced gentlemen that it has not answered the first purpose, and I hope they will find it unnecessary for the latter. Into whatever hands the administration of our country may fall, its acts ought to be examined with that freedom which becomes freemen, and with that decency which becomes gentlemen; so long as they are guided by justice and wisdom, they will be supported with decision and firmness by the friends to the administration; whenever they shall descend from these great principles, the voice of the people will again sweep the actors from the political theatre.

This law, sir, has been advocated, because it is said to ameliorate the common law of England, and on this argument much dependence has been placed; however, admitting it to be true, on a

moment's reflection it will not be found to merit any consideration; for, sir, let it be remembered that the opponents to this law are also the opponents to the adoption of that law as the law of the United States, and do not think it authorized by the constitution; this is the doctrine which they have uniformly contended for, and which, pardon me if I say, has been established as fully as one point possibly can be; it is not therefore probable, nay, I think it impossible, that they ever should appeal to it to shield them. No, sir, supported by the justice and policy of their measures, I trust they will need the aid of neither the Alien, Sedition, nor Common law.

Sir, it will be unnecessary for me to touch on the unconstitutionality of this law; it has been proven over and over again in this House, and in every part of the continent, and if what has been said and written has not convinced gentlemen, no effect would be produced by any thing which I could say. But, sir, as some of the objects for which the law was first enacted have passed by, and others have not been answered—as the friends to the approaching administration do not wish it for their protection, and the opponents will not need it for theirs, I do hope that those gentlemen who doubt about the constitutionality will vote with us, and that the bill will not be permitted to be engrossed.

The question was then taken, and the engrossment refused, 49 to 53, as follows:

YEAS.—George Baer, Bailey Bartlett, James A. Bayard, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, William Barry Grove, Robert Goodloe Harper, Archibald Henderson, William H. Hill, James H. Imlay, John Wilkes Kittera, Henry Lee, Silas Lee, Ebenezer Mattoon, Lewis R. Morris, Harrison G. Otis, Robert Page, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, Nathan Read, John Rutledge, William Shepard, John C. Smith, James Sheafe, Samuel Tenney, Geo. Thatcher, John Chew Thomas, Richard Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J. Cabell, Gabriel Christie, Matthew Clay, William C. C. Claiborne, John Condit, Thomas T. Davis, John Dawson, George Dent, Joseph Eggleston, Lucas Elmendorph, John Fowler, Albert Gallatin, Samuel Goode, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, Benjamin Huger, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, Josiah Parker, John Randolph, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Lyttleton W. Tazewell, Philip Van Cortlandt, Joseph B. Varnum, and Robert Williams.

### **WEDNESDAY, February 25.**

The House then resolved itself into a Committee of the Whole on the bill providing for a Naval Peace Establishment, and for other purposes; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were read, but, an adjournment being called for, the House adjourned.

### **FRIDAY, February 27.**

#### ***Uniform System of Bankruptcy.***

The House proceeded to consider the amendments reported yesterday, from the Committee of the whole House, to the bill to amend and continue in force the act, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" whereupon the amendments reported from the Committee of the whole House were, on the question severally put thereon, agreed to by the House.

The said bill was then further amended at the Clerk's table; and, on the question that the same be engrossed and read the third time, it was resolved in the affirmative—yeas 49, nays 42, as follows:

YEAS.—George Baer, Bailey Bartlett, James A. Bayard, John Bird, John Brown, Christopher G. Champlin, William Cooper, William Craik, Samuel W. Dana, John Davenport, Franklin Davenport, John Dennis, George Dent, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Jonathan Freeman, Henry Glenn, Chauncey Goodrich, Elizur Goodrich, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, William H. Hill, Benjamin Huger, James H. Imlay, John Wilkes Kittera, Silas Lee, Edward Livingston, Lewis R. Morris, Harrison G. Otis, Josiah Parker, Thomas Pinckney, Jonas Platt, Leven Powell, John Read, Nathan Read, William Shepard, Samuel Smith, John C. Smith, James Sheafe, Samuel Tenney, George Thatcher, John Chew Thomas, Peleg Wadsworth, Robert Waln, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, Phaniel Bishop, Robert Brown, Samuel J.

Cabell, Matthew Clay, William Charles Cole Claiborne, John Condit, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, David Holmes, George Jackson, Aaron Kitchell, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, Joseph H. Nicholson, John Randolph, John Smilie, John Smith, Richard Dobbs Spaight, Richard Stanford, David Stone, Thomas Sumter, John Stewart, Benjamin Taliaferro, John Thompson, Abram Trigg, John Trigg, Lyttleton W. Tazewell, and Joseph B. Varnum.

*Ordered*, That the said bill, with the amendments, be engrossed and read the third time tomorrow.

### ***Naval Peace Establishment.***

An engrossed bill providing for a Naval Peace Establishment, and for other purposes, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 69, nays 18.

### **SATURDAY, February 28.**

An engrossed bill to augment the salaries of the District Judges in the districts of Massachusetts, New York, Delaware, and Maryland, respectively, was read the third time, and passed.

Mr. GREGG, from the committee to whom was this day referred the memorial of Thomas Claxton and others, made a report; which he delivered in at the Clerk's table, where the same was twice read and considered; whereupon,

*Resolved*, That Thomas Claxton, James Mathers, and Thomas Dunn, be permitted to occupy, free of rent, until otherwise directed by Congress, the houses now in their respective possession, the property of the United States, in the public square in the City of Washington, on which the Capitol stands; together with a small piece of ground contiguous to each, for a garden, to be enclosed in such manner as not to interfere with any of the public streets or avenues running through the said square.

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

Mr. GRISWOLD, from the committee appointed, presented a bill further to amend the act, entitled "An act for establishing the temporary and permanent seat of the Government of the United States;" which was read twice, and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the bill concerning the Mint; and, after some time spent therein, the committee rose and reported one amendment thereto; which was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time to-day.

### ***Remonstrance of Georgia.***

Mr. DANA, from the committee to whom was referred, on the seventh ultimo, the memorial and remonstrance of the Legislature of the State of Georgia, made a report; which was read, and ordered to be committed to a Committee of the whole House on Monday next.

The report is as follows:

The Committee to whom was referred the Address and Remonstrance of the Legislature of the State of Georgia, submit the following Report:

The remonstrance complains of two acts of Congress respecting the Mississippi Territory; one passed in April, one thousand seven hundred and ninety-eight, the other in May, one thousand eight hundred; and prays for their repeal.

The tract of country called the Mississippi Territory, is bounded on the west by the River Mississippi, on the east by the river Appalachicola, or Chatahoochee, on the south by the Southern boundary of the United States, and on the north by a line drawn from the confluence of the river Yazoo with the Mississippi, due east to the before mentioned river Chatahoochee.

For a view of the claim of the United States to the territory in question, the committee, in the present instance, deem it sufficient to refer to a report of the Attorney General, made to the Senate, at the first session of the fourth Congress, and to the report of a committee of the House of Representatives, made at the first session of the sixth Congress. The last-mentioned report also contains a summary statement of a variety of individual claims to land within the territory.

The claim of Georgia is particularly stated in the remonstrance referred to your committee.

The two acts of Congress, of which the remonstrance complains, have provided for an adjustment of those claims, through the agency of Commissioners; and also for the establishment of a government over the Mississippi Territory, similar to that

established by the ordinance of Congress, of July one thousand seven hundred and eighty-seven, for the Territory north-west of the river Ohio; saving and reserving to the State of Georgia all her right or claim to the said territory.

Commissioners have accordingly been appointed on the part of the United States, and also on the part of Georgia, for negotiating an adjustment of their respective claims. No report has yet been laid before Congress from the Commissioners of the United States; but the business of their commission is understood to be yet pending.

Considering this state of things, the committee deem it proper for them to abstain from any particular discussion of the several claims to the Mississippi Territory, while a hope is cherished that an amicable adjustment may be ultimately effected. Nor do they think it expedient to adopt any measure which may be prejudicial to an object so desirable.

The committee therefore submit the following resolution:

"*Resolved*, That it would not be proper at this time for the House to take any further order on the Address and Remonstrance of the Legislature of the State of Georgia."

## MONDAY, March 2.

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The SPEAKER laid before the House a letter from the President of the United States elect, which was read, and is as follows:

WASHINGTON, *March 2, 1801.*

SIR: I beg leave through you to inform the Honorable the House of Representatives of the United States, that I shall take the oath which the constitution prescribes to the President of the United States before he enters on the execution of his office, on Wednesday, the fourth instant, at twelve o'clock, in the Senate Chamber.

I have the honor to be, with the greatest respect, sir, your most obedient, and most humble servant,

THOMAS JEFFERSON.

HON. THEODORE SEDGWICK, *Speaker of the House of Representatives.*

*Ordered*, That said letter do lie on the table.

### ***Mausoleum to Washington.***

The House proceeded to consider the amendments proposed by the Senate to the bill entitled "An act to erect a mausoleum for GEORGE WASHINGTON:" Whereupon,

A motion was made and seconded to amend the amendment of the Senate to the first section of the said bill, by striking out, from the tenth line thereof, the word "fifty," for the purpose of inserting, in lieu thereof, the word "one hundred;"

And the question being taken thereupon, it passed in the negative—yeas 34, nays 49.

The said amendments of the Senate were then further amended at the Clerk's table, and, on the question that the House do agree to the said amendments as amended, it was resolved in the affirmative—yeas 46, nays 33, as follows:

YEAS.—Theodorus Bailey, Bailey Bartlett, John Bird, Phanuel Bishop, Robert Brown, Samuel J. Cabell, Matthew Clay, William C. C. Claiborne, Samuel W. Dana, John Davenport, John Dawson, Joseph Eggleston, John Fowler, Albert Gallatin, Chauncey Goodrich, Andrew Gregg, William Barry Grove, John A. Hanna, Joseph Heister, David Holmes, John Wilkes Kittera, Michael Leib, Levi Lincoln, Matthew Lyon, James Linn, Edward Livingston, Nathaniel Macon, Peter Muhlenberg, Anthony New, John Nicholas, John Read, Nathan Read, Wm. Shepard, John Smilie, John Smith, Samuel Smith, Richard Dobbs Spaight, David Stone, Benjamin Taliaferro, Samuel Tenney, John Chew Thomas, John Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, and Peleg Wadsworth.

NAYS.—James A. Bayard, John Brown, Christopher G. Champlin, Gabriel Christie, William Craik, Franklin Davenport, John Dennis, Joseph Dickson, William Edmond, Thomas Evans, Abiel Foster, Henry Glenn, Roger Griswold, Robert Goodloe Harper, Archibald Henderson, Benjamin Huger, James H. Imlay, George Jackson, Henry Lee, Silas Lee, Ebenezer Mattoon, Robert Page, Thomas Pinckney, Jonas Platt, John Randolph, John C. Smith, Richard Stanford, Thomas Sumter, James Sheafe, John Stewart, George Thatcher, Lemuel Williams, and Henry Woods.

## TUESDAY, 6 o'clock P. M., March 3.

### ***Thanks to the Speaker.***

Mr. PAGE moved the following resolution:

*Resolved*, That the thanks of the House be presented to Theodore Sedgwick for his conduct while in the chair of this House.

The question was taken whether this motion was in order. It was decided to be in order.

The yeas and nays were ordered.

Mr. CHRISTIE said he should not point out the improprieties in the conduct of the Speaker while in the chair, otherwise than by his vote, though he possessed the right to call up to the recollection of the House the many inconsistencies his presidency had been marked with. In doing that, Mr. SPEAKER, I shall behave better to you than you have ever done to me.

The cry of "order!" "order!" prevented any more being said, and Mr. C. sat down.

The yeas and nays were then taken, and resulted—yeas 40, nays 35.

Whereupon Mr. SPEAKER made his acknowledgments to the House in the manner following:

Accept, gentlemen, my thanks, I pray you, for the respectful terms in which you have been pleased to express the opinion you entertain of the manner in which I have discharged the arduous duties of the station to which I was raised by your kind regard.

Although I am conscious of having intended faithfully to execute the trust confided to this chair, yet I am sensible that, whatever success may have attended my endeavors, is justly attributable to the candid, honorable, and firm support which you have constantly afforded. I cannot lay the least claim to merit for any thing that I have done; because the generous confidence which you had reposed in me, demanded that I should devote all my feeble talents to your service.

Being now about to retire from this House, and, as I hope, from the public councils for ever, permit me, gentlemen, to bid you, collectively and individually, an affectionate farewell. It is true that I have long wished to indulge repose in the shade of private life; but the moment of separation inflicts an anguish inexpressible by language. It is a separation from men of dignity of character, of honorable sentiments, and of disinterested patriotism; an association with whom has been my pride and solace amidst all the fatigue and vexation of public life. Of the friendship of such men, long, uninterrupted and cordial as it has been, I shall always cherish a grateful remembrance. May you receive the reward most grateful to generous spirits, the reward of witnessing, as the effects of your labors, the increasing prosperity, and happiness, and glory, of your country.

As the last words which I shall utter, as a public man, allow me to declare, that those with whom I have had the honor, here, to act and think, whose confidence I have enjoyed, whose bosoms have been opened to my inspection, in my cool and reflected opinion, deserve all of esteem, affection, and gratitude, which their countrymen can bestow. On this occasion I deem myself authorized, from the present circumstances, to make this declaration; and I do it in the most solemn manner, in the presence of the assembled Representatives of America; and not only so, but in the awful presence of that heart-searching Being to whom I feel myself responsible for all my conduct. May the Almighty keep you in his holy protection. Farewell.

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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 to 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 foregoing resolution of the Senate, agreed to the same, and appointed Mr. PINCKNEY and Mr. GROVE the committee on the part of this House.

Mr. PINCKNEY, from the joint committee of the two Houses, appointed to notify the PRESIDENT OF THE UNITED STATES of the proposed recess of Congress, reported that the committee had, according to order, performed that service, and that the PRESIDENT signified to them that he had no further communication to make, but the expression of his wishes for the health and happiness of the members, and a pleasant journey on their return to their homes and families.

*Ordered*, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now ready 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, Mr. SPEAKER adjourned the House, *sine die*.<sup>[61]</sup>

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## SEVENTH CONGRESS.—FIRST SESSION.

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BEGUN AT THE CITY OF WASHINGTON, DECEMBER 7, 1801.

PRESIDENT OF THE UNITED STATES,—THOMAS JEFFERSON.

## LIST OF MEMBERS

### SENATORS.

*New Hampshire.*—Simeon Olcott, James Sheafe.  
*Vermont.*—S. R. Bradley, Nathaniel Chipman.  
*Massachusetts.*—Jonathan Mason.  
*Rhode Island.*—Christopher Ellery, Theodore Foster.  
*Connecticut.*—James Hillhouse, Uriah Tracy.  
*New York.*—John Armstrong, G. Morris.  
*New Jersey.*—Aaron Ogden, Jonathan Dayton.  
*Pennsylvania.*—George Logan, Peter Muhlenberg.  
*Delaware.*—William H. Willes, Samuel White.  
*Maryland.*—John E. Howard, Robert Wright.  
*Virginia.*—Stevens T. Mason, Wilson C. Nicholas.  
*North Carolina.*—Jesse Franklin, David Stone.  
*South Carolina.*—John C. Calhoun, Jacob Read.  
*Georgia.*—A. Baldwin, James Jackson.  
*Tennessee.*—William Cocke, Joseph Anderson.  
*Kentucky.*—John Breckenridge, John Browne.

### REPRESENTATIVES.

*New Hampshire.*—Abiel Foster, Joseph Pearce, George B. Upham.  
*Vermont.*—Lewis R. Morris, Israel Smith.  
*Massachusetts.*—John Bacon, Phanael Bishop, Manasseh Cutler, Richard Cutts, William Eustis, Seth Hastings, Silas Lee, Eben Mattoon, Nathan Read, William Shepard, Josiah Smith, Joseph B. Varnum, P. Wadsworth, Lemuel Williams.  
*Rhode Island.*—Joseph Stanton, Thomas Tillinghast.  
*Connecticut.*—Samuel W. Dana, John Davenport, Calvin Goddard, Roger Griswold, Elias Perkins, John C. Smith, Benjamin Talmadge.  
*New York.*—Theodore Bailey, Lucas Elmendorph, E. Livingston, Samuel L. Mitchill, Thomas Morris, John Smith, David Thomas, Philip Van Cortlandt, John P. Van Ness, Killian K. Van Rensselaer, Benjamin Walker.  
*New Jersey.*—John Condit, Ebenezer Elmer, William Helms, James Mott, Henry Southard.  
*Pennsylvania.*—Thomas Boude, Robert Brown, Andrew Gregg, John A. Hanna, Joseph Heister, Joseph Hemphill, William Hoge, William Jones, Michael Leib, John Smilie, John Stewart, Isaac Van Horne, Henry Woods.  
*Delaware.*—James A. Bayard.  
*Maryland.*—John Archer, John Campbell, John Dennis, Daniel Heister, Joseph H. Nicholson, Thomas Plater, Samuel Smith, Richard Sprigg.  
*Virginia.*—Richard Brent, Samuel J. Cabell, Thomas Claiborne, John Clopton, John Dawson, William B. Giles, Edwin Gray, David Holmes, John Geo. Jackson, Anthony New, Thomas Newton, John Randolph, John Smith, John Stratton, John Taliaferro, Philip E. Thompson, Abram Trigg, John Trigg.  
*North Carolina.*—Willis Alston, William B. Grove, Archibald Henderson, William H. Hill, James Holland, Charles Johnston, Nathaniel Macon, Richard Stanford, John Stanley, Robert Williams.  
*South Carolina.*—William Butler, Benj. Huger, Thomas Lowndes, Thomas Moore, John Rutledge, Thomas Sumter.  
*Georgia.*—John Milledge, Benjamin Taliaferro.  
*Mississippi.*—Narsworthy Hunter.  
*Tennessee.*—William Dickson.  
*Kentucky.*—Thomas T. Davis, John Fowler.  
*Ohio.*—Paul Fearing.

### PROCEEDINGS IN THE SENATE.

**MONDAY, December 7, 1801.**

The first session of the Seventh Congress of the United States commenced this day, conformably

to the constitution, and the Senate assembled at the Capitol in the City of Washington.

PRESENT:

THEODORE FOSTER, from Rhode Island.

NATHANIEL CHIPMAN, from Vermont.

WILLIAM HILL WELLS and SAMUEL WHITE, from Delaware.

JOHN E. HOWARD, from Maryland.

STEVENS THOMPSON MASON and WILSON CARY NICHOLAS, from Virginia.

ABRAHAM BALDWIN, from Georgia.

JOSEPH ANDERSON and WILLIAM COOKE, from Tennessee.

STEPHEN R. BRADLEY, appointed a Senator by the State of Vermont, for the remainder of the term for which their late Senator, Elijah Paine, was appointed; JOHN BRECKENRIDGE, appointed a Senator by the State of Kentucky; CHRISTOPHER ELLERY, appointed a Senator by the State of Rhode Island, for the remainder of the term for which their late Senator, Ray Greene, was appointed; JAMES JACKSON, appointed a Senator by the State of Georgia; GEORGE LOGAN, appointed a Senator by the Executive of the State of Pennsylvania, in the place of their late Senator, Peter Muhlenberg, resigned; SIMEON OLCOTT, appointed a Senator by the State of New Hampshire, for the remainder of the term for which their late Senator, Samuel Livermore, was appointed; URIAH TRACY, appointed a Senator by the State of Connecticut; and ROBERT WRIGHT, appointed a Senator by the State of Maryland, severally produced their credentials, and took their seats in the Senate.

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The VICE PRESIDENT being absent, the Senate proceeded to the election of a President, *pro tempore*, as the constitution provides; and ABRAHAM BALDWIN was chosen.

The PRESIDENT administered the oath, as the law prescribes, to Mr. BRADLEY, Mr. BRECKENRIDGE, Mr. ELLERY, Mr. JACKSON, Mr. OLCOTT, Mr. TRACY, and Mr. WRIGHT, and the affirmation to Mr. LOGAN.

*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 ABRAHAM BALDWIN, President of the Senate, *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 ABRAHAM BALDWIN, President of the Senate, *pro tempore*.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and have elected NATHANIEL MACON their Speaker, and are ready to proceed to business.

*Ordered*, That Messrs. ANDERSON and JACKSON be a 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 agree to the resolution of the Senate for the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and have appointed a committee on their part.

Mr. ANDERSON reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES and acquainted him that a quorum of both Houses is assembled, and that the PRESIDENT OF THE UNITED STATES informed the committee that he would make a communication to them by message to-morrow.

## **TUESDAY, December 8.**

JONATHAN DAYTON and AARON OGDEN, from the State of New Jersey, and JESSE FRANKLIN, from the State of North Carolina, severally attended.

*Resolved*, That two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

### ***Presidents Message.***

The following letter and Message were received from the PRESIDENT OF THE UNITED STATES, by Mr. Lewis, his Secretary:

DECEMBER 8, 1801.

SIR: The circumstances under which we find ourselves at this place rendering inconvenient the mode heretofore practised, of making by personal address the first communications between the Legislative and Executive branches, I have adopted that by Message, as used on all subsequent occasions through the session. In doing this I have had principal regard to the convenience of the Legislature, to the economy of their time, to their relief from the embarrassment of immediate answers, on subjects not yet fully before them, and to the benefits thence resulting to the public affairs. Trusting that a procedure founded in these motives will meet their approbation, I beg leave, through you, sir, to communicate the enclosed



Message, with the documents accompanying it, to the honorable the Senate, and pray you to accept, for yourself and them, the homage of my high respect and consideration.<sup>[62]</sup>

THOMAS JEFFERSON.

The Hon. the PRESIDENT of the Senate.

*Fellow-citizens of the Senate, and House of Representatives:*

It is a circumstance of sincere gratification to me that, on meeting the great council of our nation, I am able to announce to them, on grounds of reasonable certainty, that the wars and troubles which for so many years afflicted our sister nations, have at length come to an end; and that the communications of peace and commerce are once more opening among them. Whilst we devoutly return thanks to the beneficent Being who has been pleased to breathe into them the spirit of conciliation and forgiveness, we are bound with peculiar gratitude, to be thankful to him that our own peace has been preserved through so perilous a season, and ourselves permitted quietly to cultivate the earth, and to practise and improve those arts which tend to increase our comforts. The assurances, indeed, of friendly disposition, received from all the powers with whom we have principal relations, had inspired a confidence that our peace with them would not have been disturbed. But a cessation of irregularities which had affected the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence, and strengthens, at the same time, the hope that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of restitution for the past, and new assurances for the future.

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Among our Indian neighbors, also, a spirit of peace and friendship generally prevails; and I am happy to inform you that the continued efforts to introduce among them the implements and the practice of husbandry, and of the household arts, have not been without success; that they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence, over the precarious resources of hunting and fishing; and already we are able to announce that, instead of that constant diminution of their numbers, produced by their wars and their wants, some of them begin to experience an increase of population.

To this state of general peace with which we have been blessed, one only exception exists. Tripoli, the least considerable of the Barbary States, had come forward with demands unfounded either in right or in compact, and had permitted itself to denounce war, on our failure to comply before a given day. The style of the demands admitted but one answer. I sent a small squadron of frigates into the Mediterranean, with assurances to that power of our sincere desire to remain in peace; but with orders to protect our commerce against the threatened attack. The measure was seasonable and salutary. The Bey had already declared war. His cruisers were out. Two had arrived at Gibraltar. Our commerce in the Mediterranean was blockaded, and that of the Atlantic in peril. The arrival of our squadron dispelled the danger. One of the Tripolitan cruisers, having fallen in with and engaged the small schooner *Enterprise*, commanded by Lieutenant Sterret, which had gone as a tender to our larger vessels, was captured, after a heavy slaughter of her men, without the loss of a single one on our part. The bravery exhibited by our citizens on that element will, I trust, be a testimony to the world that it is not the want of that virtue which makes us seek their peace, but a conscientious desire to direct the energies of our nation to the multiplication of the human race, and not to its destruction. Unauthorized by the constitution, without the sanction of Congress, to go beyond the line of defence, the vessel, being disabled from committing further hostilities, was liberated with its crew. The Legislature will doubtless consider whether, by authorizing measures of offence also, they will place our force on an equal footing with that of its adversaries. I communicate all material information on this subject, that, in the exercise of this important function confided by the constitution to the Legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight.

I wish I could say that our situation with all the other Barbary States was entirely satisfactory. Discovering that some delays had taken place in the performance of certain articles stipulated by us, I thought it my duty, by immediate measures for fulfilling them, to vindicate to ourselves the right of considering the effect of departure from stipulation on their side. From the papers which will be laid before you, you will be enabled to judge whether our treaties are regarded by them as fixing at all the measure of their demands, or, as guarding from the exercise of force our vessels within their power; and to consider how far it will be safe and expedient to leave our affairs with them in their present posture.

I lay before you the result of the census lately taken of our inhabitants, to a conformity with which we are now to reduce the ensuing ratio of representation and taxation. You will perceive that the increase of numbers, during the last ten

years, proceeding in geometrical ratio, promises a duplication in little more than twenty-two years. We contemplate this rapid growth, and the prospect it holds up to us, not with a view to the injuries it may enable us to do to others in some future day, but to the settlement of the extensive country still remaining vacant within our limits, to the multiplication of men susceptible of happiness, educated in the love of order, habituated to self-government, and valuing its blessings above all price.

Other circumstances, combined with the increase of numbers, have produced an augmentation of revenue arising from consumption, in a ratio far beyond that of population alone; and, though the changes in foreign relations now taking place, so desirably for the whole world, may for a season affect this branch of revenue, yet, weighing all probabilities of expense, as well as of income, there is reasonable ground of confidence that we may now safely dispense with all the internal taxes—comprehending excise, stamps, auctions, licenses, carriages, and refined sugars; to which the postage on newspapers may be added, to facilitate the progress of information; and that the remaining sources of revenue will be sufficient to provide for the support of Government, to pay the interest of the public debts, and to discharge the principals within shorter periods than the laws or the general expectation had contemplated. War, indeed, and untoward events, may change this prospect of things, and call for expenses which the imposts could not meet. But sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasure for wars to happen we know not when, and which might not, perhaps, happen, but from the temptations offered by that treasure.

These views, however, of reducing our burdens, are formed on the expectation that a sensible, and at the same time a salutary, reduction may take place in our habitual expenditures. For this purpose those of the civil Government, the army, and navy, will need revisal. When we consider that this Government is charged with the external and mutual relations only of these States; that the States themselves have principal care of our persons, our property, and our reputation, constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive; whether offices and officers have not been multiplied unnecessarily, and sometimes injuriously to the service they were meant to promote. I will cause to be laid before you an essay towards a statement of those who, under public employment of various kinds, draw money from the Treasury, or from our citizens. Time has not permitted a perfect enumeration, the ramifications of office being too multiplied and remote to be completely traced in a first trial. Among those who are dependent on Executive discretion, I have begun the reduction of what was deemed unnecessary. The expenses of diplomatic agency have been considerably diminished. The inspectors of internal revenue, who were found to obstruct the accountability of the institution, have been discontinued. Several agencies, created by Executive authority, on salaries fixed by that also, have been suppressed, and should suggest the expediency of regulating that power by law, so as to subject its exercise to Legislative inspection and sanction. Other reformations of the same kind will be pursued with that caution which is requisite, in removing useless things, not to injure what is retained. But the great mass of public offices is established by law, and therefore by law alone can be abolished. Should the Legislature think it expedient to pass this roll in review, and try all its parts by the test of public utility, they may be assured of every aid and light which Executive information can yield. Considering the general tendency to multiply offices and dependencies, and to increase expenses to the ultimate term of burden which the citizens can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge; that it never may be seen here that, after leaving to labor the smallest portion of its earnings on which it can subsist, Government shall itself consume the whole residue of what it was instituted to guard.

In our care, too, of the public contributions intrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money, where the examinations may be prompt, efficacious, and uniform.

An account of the receipts and expenditures of the last year, as prepared by the Secretary of the Treasury, will, as usual, be laid before you. The success which has attended the late sales of the public lands shows that, with attention, they may be made an important source of receipt. Among the payments those made in discharge of the principal and interest of the national debt, will show that the public faith has been exactly maintained. To these will be added an estimate of appropriations necessary for the ensuing year. This last will, of course, be affected by such modifications of the system of expense as you shall think proper to adopt.

A statement has been formed by the Secretary of War, on mature consideration, of

all the posts and stations where garrisons will be expedient, and of the number of men requisite for each garrison. The whole amount is considerably short of the present Military Establishment. For the surplus no particular use can be pointed out. For defence against invasion their number is as nothing; nor is it conceived needful or safe that a standing army should be kept up in time of peace, for that purpose. Uncertain as we must ever be of the particular point in our circumference where an enemy may choose to invade us, the only force which can be ready at every point, and competent to oppose them, is the body of neighboring citizens, as formed into a militia. On these, collected from the parts most convenient, in numbers proportioned to the invading force, it is best to rely, not only to meet the first attack, but if it threatens to be permanent, to maintain the defence until regulars may be engaged to relieve them. These considerations render it important that we should, at every session, continue to amend the defects which from time to time show themselves in the laws for regulating the militia, until they are sufficiently perfect: nor should we now, or at any time, separate, until we can say that we have done every thing for the militia which we could do were an enemy at our door.

The provision of military stores on hand will be laid before you, that you may judge of the additions still requisite.

With respect to the extent to which our naval preparations should be carried, some difference of opinion may be expected to appear; but just attention to the circumstances of every part of the Union will doubtless reconcile all. A small force will probably continue to be wanted for actual service in the Mediterranean. Whatever annual sum beyond that you may think proper to appropriate to naval preparations, would perhaps be better employed in providing those articles which may be kept without waste or consumption, and be in readiness when any exigence calls them into use. Progress has been made, as will appear by papers now communicated, in providing materials for seventy-four gun ships, as directed by law.

How far the authority given by the Legislature for procuring and establishing sites for naval purposes, has been perfectly understood and pursued in the execution, admits of some doubt. A statement of the expenses already incurred on that subject is now laid before you. I have, in certain cases, suspended or slackened these expenditures, that the Legislature might determine whether so many yards are necessary as have been contemplated. The works at this place are among those permitted to go on; and five of the seven frigates directed to be laid up, have been brought and laid up here, where, besides the safety of their position, they are under the eye of the Executive Administration, as well as of its agents; and where yourselves also will be guided by your own view in the legislative provisions respecting them, which may, from time to time, be necessary. They are preserved in such condition, as well the vessels as whatever belongs to them, as to be at all times ready for sea at a short warning. Two others are yet to be laid up, as soon as they shall receive the repairs requisite to put them also into sound condition. As a superintending officer will be necessary at each yard, his duties and emoluments, hitherto fixed by the Executive, will be a more proper subject for legislation. A communication will also be made of our progress in the execution of the law respecting the vessels directed to be sold.

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The fortifications of our harbors, more or less advanced, present considerations of great difficulty. While some of them are on a scale sufficiently proportioned to the advantages of their position, to the efficacy of their protection, and the importance of the points within it, others are so extensive, will cost so much in their first erection, so much in their maintenance, and require such a force to garrison them, as to make it questionable what is best now to be done. A statement of those commenced or projected; of the expenses already incurred; and estimates of their future cost, as far as can be foreseen, shall be laid before you, that you may be enabled to judge whether any alteration is necessary in the laws respecting this subject.

Agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, are then most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be seasonably interposed. If, in the course of your observations or inquiries, they should appear to need any aid within the limits of our constitutional powers, your sense of their importance is a sufficient assurance they will occupy your attention. We cannot, indeed, but all feel an anxious solicitude for the difficulties under which our carrying trade will soon be placed. How far it can be relieved, otherwise than by time, is a subject of important consideration.

The Judiciary system of the United States, and especially that portion of it recently erected, will, of course, present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and of those which were depending when

additional courts and judges were brought in to their aid.

And while on the Judiciary organization, it will be worthy of your consideration whether the protection of the inestimable institution of juries has been extended to all the cases involving the security of our persons and property. Their impartial selection also being essential to their value, we ought further to consider whether that is sufficiently secured in those States where they are named by a marshal depending on Executive will, or designated by the court, or by officers dependent on them.

I cannot omit recommending a revisal of the laws on the subject of naturalization. Considering the ordinary chances of human life, a denial of citizenship under a residence of fourteen years, is a denial to a great proportion of those who ask it; and controls a policy pursued, from their first settlement, by many of these States, and still believed of consequence to their prosperity. And shall we refuse to the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our fathers arriving in this land? Shall oppressed humanity find no asylum on this globe? The constitution, indeed, has wisely provided that, for admission to certain offices of important trust, a residence shall be required sufficient to develop character and design. But might not the general character and capabilities of a citizen be safely communicated to every one manifesting a bona fide purpose of embarking his life and fortunes permanently with us? with restrictions, perhaps, to guard against the fraudulent usurpation of our flag? an abuse which brings so much embarrassment and loss on the genuine citizen, and so much danger to the nation of being involved in war, that no endeavor should be spared to detect and suppress it.

These, fellow-citizens, are the matters respecting the state of the nation which I have thought of importance to be submitted to your consideration at this time. Some others of less moment, or not yet ready for communication, will be the subject of separate Messages. I am happy in this opportunity of committing the arduous affairs of our Government to the collected wisdom of the Union. Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution. The prudence and temperance of your discussions will promote, within your own walls, that conciliation which so much befriends rational conclusion; and by its example will encourage among our constituents that progress of opinion which is tending to unite them in object and in will. That all should be satisfied with any one order of things, is not to be expected; but I indulge the pleasing persuasion that the great body of our citizens will cordially concur in honest and disinterested efforts, which have for their object to preserve the General and State Governments in their constitutional form and equilibrium; to maintain peace abroad, and order and obedience to the laws at home; to establish principles and practices of administration favorable to the security of liberty and property, and to reduce expenses to what is necessary for the useful purposes of Government.

THOMAS JEFFERSON.

DECEMBER 8, 1801.

The Letter and Message were read, and ordered to be printed for the use of the Senate.

The papers referred to in the Message were in part read, and the Senate adjourned.

### **WEDNESDAY, December 9.**

The Senate proceeded to the appointment of a Chaplain to Congress on their part, and the Rev. Mr. GANTT was elected.

### **THURSDAY, December 10.**

*Resolved*, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one additional assistant, and two horses, for the purpose of performing such services as are usually required of the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for the purpose during the session, and for twenty days after.

### **FRIDAY, December 11.**

JOHNATHAN MASON, from the State of Massachusetts, and JAMES SHEAFE, from the State of New Hampshire, severally attended.

### **MONDAY, December 14.**

JAMES HILLHOUSE, from the State of Connecticut, and DWIGHT FOSTER, from the State of Massachusetts, severally attended.

A message from the House of Representatives informed the Senate that the House have elected [Pg 545]

the Reverend WILLIAM PARKINSON a Chaplain to Congress on their part.

### **SATURDAY, December 19.**

GOUVERNEUR MORRIS, from the State of New York, attended.

THOMAS SUMTER, appointed a Senator by the Legislature of the State of South Carolina, in the place of their late Senator, Charles Pinckney, resigned, produced his credentials, was qualified, and took his seat in the Senate.

### **MONDAY, December 21.**

The credentials of GEORGE LOGAN, appointed a Senator by the Legislature of the State of Pennsylvania, were presented and read; and the affirmation prescribed by law was administered by the President.

### **TUESDAY, December 22.**

DAVID STONE, from the State of North Carolina, attended.

### **MONDAY, December 28.**

JOHN EWING COLHOUN, appointed a Senator by the Legislature of the State of South Carolina, produced his credentials, was qualified, and took his seat in the Senate.

### **THURSDAY, December 31.**

Mr. BRECKENRIDGE presented the petition of Isaac Zane, stating that he was made a prisoner at the age of nine years by the Wyandot Indians, with whom he remained until he became of age; had a family by a woman of that nation, and a tract of land was assigned him by the said nation, on a branch of the Great Miami, and which tract of land was ceded to the United States by a recent treaty with the said Wyandot Indians, and praying such relief as may be deemed equitable; and the petition was read, and committed to MESSRS. BRECKENRIDGE, TRACY, and OGDEN, to consider and report thereon.

### **TUESDAY, January 5, 1802.**

Mr. BROWN, from the State of Kentucky, attended.

#### ***Reporting the Debates.***

The PRESIDENT laid before the Senate a letter signed Samuel H. Smith, stating that he was desirous of taking notes of the proceedings of the Senate, in such manner as to render them correct: Whereupon,

*Resolved*, That any stenographer desirous to take the debates of the Senate on Legislative business, may be admitted for that purpose, at such place within the area of the Senate Chamber as the President may allot:

And, on motion to reconsider the above resolution, it passed in the affirmative—yeas 17, nays 9.

YEAS.—MESSRS. Anderson, Breckenridge, Cocke, Dayton, Ellery, Dwight Foster, Hillhouse, Howard, Logan, Jonathan Mason, Morris, Ogden, Olcott, Sumter, Tracy, White, and Wright.

NAYS.—Messrs. Baldwin, Brown, Chipman, T. Foster, Franklin, Jackson, Nicholas, Sheafe, and Stone.

On motion, to amend the resolution, by adding, after the word stenographer, "He having given bond in the sum of —, with two sufficient sureties, in the sum of — each, for his good conduct," it passed in the negative—yeas 10, nays 18, as follows:

YEAS.—MESSRS. Chipman, Dayton, Dwight Foster, Hillhouse, Howard, Morris, Ogden, Olcott, Sheafe, and Tracy.

NAYS.—Messrs. Anderson, Baldwin, Breckenridge, Brown, Cocke, Colhoun, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, J. Mason, Nicholas, Stone, Sumter, White, and Wright.

On motion, to agree to the original resolution, amended by adding the words "or note-taker," after the words stenographer, it passed in the affirmative—yeas 16, nays 12, as follows:

YEAS.—MESSRS. Anderson, Baldwin, Breckenridge, Brown, Cocke, Colhoun, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, and Wright.

NAYS.—Messrs. Chipman, Dayton, Dwight Foster, Hillhouse, Howard, J. Mason, Morris, Ogden, Olcott, Sheafe, Tracy, and White.

So it was *Resolved*, That any stenographer, *or note-taker*, desirous of taking the debates of the

Senate on Legislative business, may be admitted for that purpose at such place, within the area of the Senate Chamber, as the President shall allot.<sup>[63]</sup>

## WEDNESDAY, January 6.

### *Judiciary System.*

Mr. MASON called for the reading of the Message, which was in part read; when the further reading of the whole document was suspended, and that part only read, which relates to the Judiciary System.

Upon which Mr. BRECKENRIDGE, from Kentucky, rose, and stated that two days ago he had given notice that on this day he would submit to the consideration of the Senate two resolutions respecting the Judiciary Establishment of the United States. As, however, those resolutions were not necessarily connected, and as they might be distinctly discussed, he would at present confine himself to moving the first resolution; without however foreclosing to himself the right of submitting the second after the disposition of the first. He, therefore, moved that the act passed last session *respecting the Judiciary Establishment* of the United States be repealed.

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[This is the act which created sixteen new circuit judges.]

## FRIDAY, January 8.

### *Judiciary System.*

Agreeably to the order of the day, the Senate proceeded to the consideration of the motion made on the 6th instant, to wit:

"That the act of Congress passed on the 13th day of February, 1801, entitled 'An act to provide for the more convenient organization of the Courts of the United States,' ought to be repealed."<sup>[64]</sup>

Mr. BRECKENRIDGE then rose and addressed the PRESIDENT, as follows:

It will be expected of me, I presume, sir, as I introduced the resolution now under consideration, to assign my reasons for wishing a repeal of this law. This I shall do; and shall endeavor to show:

1. That the law is unnecessary and improper, and was so at its passage; and
2. That the courts and judges created by it, can and ought to be abolished.

1st. That the act under consideration was unnecessary and improper, is, to my mind, no difficult task to prove. No increase of courts or judges could be necessary or justifiable, unless the existing courts and judges were incompetent to the prompt and proper discharge of the duties consigned to them. To hold out a show of litigation, when in fact little exists, must be impolitic; and to multiply expensive systems, and create hosts of expensive officers, without having experienced an actual necessity for them, must be a wanton waste of the public treasure.

The document before us shows that, at the passage of this act, the existing courts, not only from their number, but from the suits depending before them, were fully competent to a speedy decision of those suits. It shows, that on the 15th day of June last, there were depending in all the circuit courts, (that of Maryland only excepted, whose docket we have not been furnished with,) one thousand five hundred and thirty-nine suits. It shows that eight thousand two hundred and seventy-six suits of every description have come before those courts, in ten years and upwards. From this it appears, that the annual average amount of suits has been about eight hundred.

But sundry contingent things have conspired to swell the circuit court dockets. In Maryland, Virginia, and in all the Southern and South-western States, a great number of suits have been brought by British creditors; this species of controversy is nearly at an end.

In Pennsylvania, the docket has been swelled by prosecutions in consequence of the Western insurrection, by the disturbances in Bucks and Northampton Counties: and by the sedition act. These I find amount in that State to two hundred and forty suits.

In Kentucky, non-resident land claimants have gone into the federal court from a temporary convenience: because, until within a year or two past, there existed no court of general jurisdiction co-extensive with the whole State. I find, too, that of the six hundred and odd suits which have been commenced there, one hundred and ninety-six of them have been prosecutions under the laws of the United States.

In most of the States there have been prosecutions under the sedition act. This source of litigation is, I trust, for ever dried up. And, lastly, in *all* the States a number of suits have arisen under the excise law; which source of controversy will, I hope, before this session terminates, be also dried up.

But this same document discloses another important fact; which is, that notwithstanding all these untoward and temporary sources of federal adjudication, the suits in those courts are *decreasing*; for, from the dockets exhibited (except Kentucky and Tennessee, whose suits are summed up in the aggregate) it appears, that in 1799 there were one thousand two hundred and seventy-four, and in 1800 there were six hundred and eighty-seven suits commenced; showing a decrease of five hundred and eighty-seven suits.

Could it be necessary then to *increase* courts when suits were *decreasing*? Could it be necessary to multiply judges, when their duties were diminishing? And will I not be justified, therefore, in affirming, that the law was unnecessary, and that Congress acted under a mistaken impression, when they multiplied courts and judges at a time when litigation was actually decreasing?

But, sir, the decrease of business goes a small way in fixing my opinion on this subject. I am inclined to think, that so far from there having been a necessity at this time for an increase of courts and judges, that the time never will arrive when America will stand in need of thirty-eight federal judges. Look, sir, at your constitution, and see the judicial power there consigned to federal courts, and seriously ask yourself can there be fairly extracted from those powers subjects of litigation sufficient for six supreme and thirty-two inferior court judges? To me it appears impossible.

The judicial powers given to the federal courts were never intended by the constitution to embrace, exclusively, subjects of litigation, which could, with propriety, be left with the State courts. Their jurisdiction was intended principally to extend to great national and foreign concerns. Except cases arising under the laws of the United States, I do not at present recollect but three or four kinds in which their power extends to subjects of litigation, in which private persons only are concerned. And can it be possible, that with a jurisdiction embracing so small a portion of private litigation, in a great part of which the State courts might, and ought to participate, that we can stand in need of thirty-eight judges, and expend in judiciary regulations the annual sum of \$137,000?

No other country, whose regulations I have any knowledge of, furnishes an example of a system so prodigal and extensive. In England, whose courts are the boast, and said to be the security of the rights of the nation, every man knows there are but twelve judges and three principal courts. These courts embrace, in their original or appellate jurisdiction, almost the whole circle of human concerns.

The King's Bench and Common Pleas, which consist of four judges each, entertain all the common law suits of 40s. and upwards, originating among nine millions of the most commercial people in the world. They moreover revise the proceedings of not only all the petty courts of record in the kingdom, even down to the courts of piepoudre, but also of the Court of King's Bench in Ireland; and these supreme courts, after centuries of experiment, are found to be fully competent to *all* the business of the kingdom.

I will now inquire into the power of Congress to put down these additional courts and judges.

First, as to the courts, Congress are empowered by the constitution "from time to time, to ordain and establish inferior courts." The act now under consideration, is a legislative construction of this clause in the constitution, that Congress may abolish as well as create these judicial officers; because it does expressly, in the twenty-seventh section of the act, abolish the then existing inferior courts, for the purpose of making way for the present. This construction, I contend, is correct; but it is equally pertinent to my object, whether it be or be not. If it be correct, then the present inferior courts may be abolished as constitutionally as the last; if it be not, then the law for abolishing the former courts, and, establishing the present, was unconstitutional, and consequently repealable.

But independent of this legislative construction, on which I do not found my opinion, nor mean to rely my argument, there is little doubt indeed, in my mind, as to the power of Congress on this law. The first section of the third article vests the judicial power of the United States in one Supreme Court and such inferior courts as Congress may, from time to time, ordain and establish. By this clause Congress *may*, from time to time, establish inferior courts; but it is clearly a discretionary power, and they *may not* establish them. The language of the constitution is very different when regulations are not left discretionary. For example, "The trial," says the constitution, "of all crimes '(except in cases of impeachment) shall be by jury: representatives and direct taxes shall be apportioned according to numbers. All revenue bills shall originate in the House of Representatives,'" &c. It would, therefore, in my opinion, be a perversion, not only of language, but of intellect, to say, that although Congress may, from time to time, establish inferior courts, yet, when established, that they shall not be abolished by a subsequent Congress possessing equal powers. It would be a paradox in legislation.

2d. As to the judges. The Judiciary Department is so constructed as to be sufficiently secured against the improper influence of either the Executive or Legislative Departments. The courts were organized and established by the Legislature, and the Executive creates the judges. Being thus organized, the constitution affords the proper checks to secure their honesty and independence in office. It declares they shall not be removed from office during good behavior; nor their salaries diminished during their continuance in office. From this it results, that a judge, after his appointment, is totally out of the power of the President, and his salary secured against legislative diminution, during his continuance in office. The first of these checks, which protects a judge in his office during good behavior, applies to the President only, who would otherwise have possessed the power of removing him, like all other officers, at pleasure; and the other check, forbidding a diminution of their salaries, applies to the Legislature only. They are two separate and distinct checks, furnished by the constitution against two distinct departments of the Government; and they are the only ones which are or ought to have been furnished on the subject.

But because the constitution declares that a judge shall hold his office during good behavior, can it be tortured to mean, that he shall hold his office after it is abolished? Can it mean, that his tenure should be limited by behaving well in an office which did not exist? Can it mean that an

office may exist, although its duties are extinct? Can it mean, in short, that the shadow, to wit, the judge, can remain, when the substance, to wit, the office, is removed? It must have intended all these absurdities, or it must admit a construction which will avoid them.

The construction obviously is, that a judge should hold an existing office, so long as he did his duty in that office; and not that he should hold an office that did not exist, and perform duties not provided by law. Had the construction which I contend against been contemplated by those who framed the constitution, it would have been necessary to have declared, explicitly, that the judges should hold their offices and their salaries during good behavior.

Let me not be told, sir, that the salaries in the present case are inconsiderable, and ought not to be withheld; and that the doctrine is not a dangerous one. I answer, it is the principle I contend against; and if it is heterodox for one dollar, it is equally so for a million. But I contend the principle, if once admitted, may be extended to destructive lengths. Suppose it should hereafter happen, that those in power should combine to provide handsomely for their friends, could any way so plain, easy, and effectual, present itself, as by creating courts, and filling them with those friends? Might not sixty as well as sixteen, with salaries of twenty thousand, instead of two thousand dollars, be provided for in this way?

There is another difficulty under this construction still to encounter, and which also grows out of the constitution: By the constitution, a new State may be formed by the junction of two or more States, with their assent and that of Congress. If this doctrine, once a judge and always a judge, be correct, what would you do in such an event, with the district judges of the States who formed that junction? Both would be unnecessary, and you would have, in a single State, two judges of equal and concurrent jurisdiction; or one a real judge, with an office, and another a quasi judge, without an office. The States also forming such junction, would be equally embarrassed with their State judges; for the same construction would be equally applicable to them.

Upon this construction, also, an infallibility is predicated, which it would be arrogance in any human institution to assume, and which goes to cut up legislation by the roots. We would be debarred from that which is indulged to us from a higher source, and on subjects of higher concern than legislation; I mean a retraction from and correction of our errors. On all other subjects of legislation we are allowed, it seems, to change our minds, except on judiciary subjects, which, of all others, are the most complex and difficult. I appeal to our own statute book to prove this difficulty: for in ten years Congress have passed no less than twenty-six laws on this subject.

Mr. J. MASON, of Massachusetts, said, it would be agreed on all hands that this was one of the most important questions that ever came before a Legislature. Were he not of this opinion he would not have risen to offer his sentiments. But he felt so deep an interest in the question, and from the respect which he entertained for the district of country he represented, he deemed it his duty to meet the subject, and not be satisfied with giving to it his silent negative.

The constitution, in the construction of the Executive, Legislative, and Judiciary Departments, had assigned to each a different tenure. The President was chosen for four years; the Senate for six years, subject to a prescribed rotation biennially; the House of Representatives for two years; and the Judiciary during good behavior. It says to the President, at the expiration of every four years, you shall revert to the character of a private citizen, however splendid your talents or conspicuous your virtue. Why? Because you have assigned to you powers which it is dangerous to exercise. You have the power of creating offices and officers. You have prerogatives. The temptation to an abuse of your power is great. Such has been the uniform experience of ages. The constitution holds the same language to the Senate and House of Representatives: It says, it is necessary for the good of society that you also should revert at short periods to the mass of the people, because to you are consigned the most important duties of Government, and because you hold the purse-strings of the nation.

To the Judiciary: What is the language applied to them? The judges are not appointed for two, four, or any given number of years; but they hold their appointments for life, unless they misbehave themselves. Why? For this reason: They are not the depositaries of the high prerogatives of Government. They neither appoint to office, nor hold the purse-strings of the country, nor legislate for it. They depend entirely upon their talents, which is all they have to recommend them. They cannot, therefore, be disposed to pervert their power to improper purposes. What are their duties? To expound and apply the laws. To do this with fidelity and skill, requires a length of time. The requisite knowledge is not to be procured in a day. These are the plain and strong reasons which must strike every mind, for the different tenure by which the judges hold their offices, and they are such as will eternally endure wherever liberty exists.

On examination, it will be found that the people, in forming their constitution, meant to make the judges as independent of the Legislature as of the Executive. Because the duties which they have to perform, call upon them to expound not only the laws, but the constitution also; in which is involved the power of checking the Legislature in case it should pass any laws in violation of the constitution. For this reason it was more important that the judges in this country should be placed beyond the control of the Legislature, than in other countries where no such power attaches to them.

The constitution says: "The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."



Thus it says, "the judges *shall hold* their offices during good behavior." How can this direction of the constitution be complied with, if the Legislature shall, from session to session, repeal the law under which the office is held, and *remove the office*? He did not conceive that any words, which human ingenuity could devise, could more completely get over the remarks that had been made by the gentleman from Kentucky. But that gentleman says, that this provision of the constitution applies exclusively to the President. He considers it as made to supersede the powers of the President to remove the judges. But could this have been the contemplation of the framers of the constitution, when even the right of the President to remove officers at pleasure, was a matter of great doubt, and had divided in opinion our most enlightened citizens. Not that he stated this circumstance because he had doubts. He thought the President ought to have the right; but it did not emanate from the constitution; was not expressly found in the constitution, but sprang from Legislative construction.

Besides, if Congress have the right to repeal the whole of the law, they must possess the right to repeal a section of it. If so, they may repeal the law so far as it applies to a particular district, and thus get rid of an obnoxious judge. They may remove his office from him. Would it not be absurd still to say, that the removed judge held his office during good behavior?

The constitution says: "The judges shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office." Why this provision? Why guard against the power to deprive the judges of their pay in a diminution of it, and not provide against what was more important, their existence?

Still, if the gentlemen would not agree with him as to the unconstitutionality of the measure proposed, he would ask, was it expedient? Were there not great doubts existing throughout the United States? Ought not each gentleman to say, though I may have no doubts or hesitancy, are not a large portion of our citizens of opinion that it would violate the constitution? If this diversity of sentiment exists, ought not the evils under the judiciary law to be very great before we touch it? Ought we not to aim at harmonizing, instead of dividing our citizens? Was not the constitution a sacred instrument; an instrument ever to be approached with reverence; an instrument which ought not lightly to be drawn from its hallowed retreat, and subjected to the flux and reflux of passion? But where is the evil complained of? This system was established only last session; scarcely had it been yet originated; scarcely had we tried it on its very threshold; where then the necessity of being so pointed, as to destroy a system scarcely formed three days ago? Does not this manifest precipitation? Will it not manifest more magnanimity, more rationality, to abide by it until we try it; instead of taking up a pen and dashing it out of existence?

Mr. MORRIS, of New York.—Mr. President, I am so very unfortunate, that the arguments in favor of the motion have confirmed my opinion that the law to which it refers ought not to be repealed. The honorable mover has rested his proposition on two grounds:

- 1st. That the judiciary law passed last session is unnecessary; and,
- 2dly. That we have a right to repeal it, and ought to exercise that right.

Gentlemen say, recur to the ancient system. What is the ancient system? Six judges of the Supreme Court to ride the circuit of America twice a year, and sit twice a year at the seat of Government. Without inquiring into the accuracy of a statement made by the gentleman respecting the courts of England, in which, I apprehend, he will find himself deceived, let me ask what would be the effects of the old system here? Cast an eye over the extent of our country, and a moment's consideration will show that the First Magistrate, in selecting a character for the bench, must seek less the learning of a judge than the agility of a post-boy. Can it be possible that men advanced in years, (for such alone can have the maturity of judgment fitting for the office;) that men educated in the closet—men who, from their habits of life, must have more strength of mind than of body; is it, I say, possible that such men can be running from one end of the continent to the other? Or, if they could, can they find time to hear and decide causes? I have been told by men of eminence on the bench, that they could not hold their offices under the old arrangement.

What is the present system? You have added to the old judges seven district and sixteen circuit judges. What will be the effect of the desired repeal? Will it not be a declaration to the remaining judges that they hold their offices subject to your will and pleasure? And what will be the result of this? It will be, that the check established by the constitution, wished for by the people, and necessary in every contemplation of common sense, is destroyed. It had been said, and truly, too, that Governments are made to provide against the follies and vices of men. For to suppose that Governments rest upon reason is a pitiful solecism. If mankind were reasonable, they would want no Government. Hence, checks are required in the distribution of the power among those who are to exercise it for the benefit of the people. Did the people of America vest all power in the Legislature? No; they had vested in the judges a check intended to be efficient—a check of the first necessity, to prevent an invasion of the constitution by unconstitutional laws—a check which might prevent any faction from intimidating or annihilating the tribunals themselves.

On this ground, said Mr. MORRIS, I stand to arrest the victory meditated over the constitution of my country; a victory meditated by those who wish to prostrate that constitution for the furtherance of their own ambitious views. Not of him who had recommended this measure, nor of those who now urge it; for, on his uprightness and their uprightness, I have the fullest reliance; but of those in the background who have further and higher objects. These troops that protect the outworks are to be first dismissed. Those posts which present the strongest barriers are first to be taken, and then the constitution becomes an easy prey.

Let us then, secondly, consider whether we have constitutionally a power to repeal this law. [Here Mr. MORRIS quoted the third article and first section of the constitution.] I have heard a verbal criticism about the words *shall* and *may*, which appeared the more unnecessary to me, as the same word, *shall*, is applied to both members of the section. For it says: "the judicial power, &c. *shall* be vested in one Supreme Court and such inferior courts as the Congress *may*, from time to time, ordain and establish." The Legislature, therefore, had, without doubt, the right of determining, in the first instance, what inferior courts should be established; but when established, the words are imperative, a part of the judicial power shall vest in them. And "the judges shall hold their offices during good behavior." They shall receive a compensation which shall not be diminished during their continuance in office. Therefore, whether the remarks be applied to the tenure of office, or the quantum of compensation, the constitution is equally imperative. After this exposition, gentlemen are welcome to any advantage to be derived from the criticism on *shall* and *may*.

**MONDAY, January 11.**

***Apportionment Bill.***

The Apportionment bill, as received from the House of Representatives, was taken up. This bill fixes the ratio of representation at one member for every 33,000 persons in each State.

Mr. WELLS moved to strike out 33,000, his object being to introduce 30,000, for which he assigned his reasons at some length.

On this motion a debate of some length ensued, in which the provisions of the bill as they stood were supported by MESSRS. JACKSON, MASON, WRIGHT, and COCKE; and opposed by Messrs. WELLS and HILLHOUSE.

Mr. WHITE, of Delaware.—Believing as I do, sir, that the minds of gentlemen on this floor are thoroughly made up as to the present subject, and that any observations now to be offered will not influence a single vote, but merely occupy the time of the Senate to no useful purpose, I shall ask your indulgence but a few moments. I cannot, sir, sit quietly and see this bill reported by your committee, meditating as it certainly does a manifest injury to the State I have the honor in part to represent, pass into a law, without doing more than oppose to it a silent negative; without holding up my voice and protesting most solemnly against the extreme injustice of the measure. If, sir, this bill passes in its present shape, there will be left in the State of Delaware twenty-eight thousand eight hundred and eleven people unrepresented in the popular branch of their Legislature. Gentlemen may say, that this is only a fraction, and that in a general apportionment of representation, fractional numbers are unavoidable. Sir, I acknowledge it is only a fraction, but it is a fraction that includes one-half the population of that State, and amounts, even upon the present contemplated plan, to within four thousand of the number sufficient to gain another Representative. Sir, twenty-eight or thirty thousand would, to one of the large States, be an inconsiderable fraction. Apportion that number, for instance, among the twenty-one Representatives from Virginia, and you give to each member but a fraction of about thirteen hundred; whereas from Delaware, there will be but one representative, and over and above his legal number a fraction of near twenty-nine thousand people unrepresented. Is this fair, sir? Is this equitable? I ask, gentlemen, is it not unfriendly and wrongful? And can it be possible, sir, that the transcendent omnipotence of a majority have fated, if I may use the expression, this injustice upon a sister State? Suppose, sir, Delaware to have but one Representative and Virginia twenty, a fraction of five thousand to the former is equal to a redundant number of one hundred thousand to the latter; or take, sir, the present case, and you will find that the fraction of twenty-nine thousand in the State of Delaware, apportioned upon the representation, is at least equal to a redundant number in the State of Virginia of three hundred thousand. If, sir, the divisor is fixed at thirty thousand, Delaware will have two Representatives; her weight, then, in the other House, will, in relation to Virginia, be as one to twelve, but if she is compelled to submit to the divisor of thirty-three thousand, you allow her but one Representative; you deny her nearly one-half her rightful influence, and place her on the floor of the House of Representatives in a relative situation toward Virginia, as one to twenty-one. Sir, an additional Representative to any of the larger States is not of the same consequence as another would be to Delaware. To Virginia, for instance, one is but the twentieth part of her force, to Delaware it would be one-half her force. Gentlemen may say that Delaware is the smallest State; but let it be remembered, sir, that her rights are equally sacred with those of the largest States; and although her citizens are not so numerous, yet, sir, their State sovereignty and other constitutional rights are quite as dear and valuable to them, as the blessing can be to any other people; and, let me add, sir, she is among the oldest States; her history travels back through the bloody scenes of your Revolution; she dates her era at your Declaration of Independence, and I am proud to say, and can do so without detracting from her neighbors, in proportion to her population, her resources, and extent, during the severe contest for American liberty, she contributed, in blood and treasure, as freely to its support and permanent establishment, as any State in the Union.

Sir, the doctrine urged by some gentlemen that the divisor of thirty thousand will increase the House of Representatives to a body too large and unwieldy for the convenient and ordinary purposes of business, seems to me totally without foundation. The observation and experience of every man must be sufficient at once to satisfy him that this cannot be the consequence; we have before our eyes, sir, examples that prove directly the reverse. This divisor will give to your House of Representatives but one hundred and fifty-seven members; the State of Virginia has in the

popular branch of her Legislature one hundred and eighty members, and we have not been told that it is too numerous. The British House of Commons, before the union with Ireland, consisted of about five hundred and fifty members, and we heard no complaint of the numbers; on the contrary, sir, the nation wished a fuller representation; and it is from that House, too, sir, that, according to this logic, must be so extremely riotous and disorderly, we have drawn most of the rules that govern the proceedings of this honorable body.

Again, sir, the nature and spirit of your Government requires a full representation in the Legislature. It is a Government that must depend alone for its support upon the affections of the people; and the best security for their affections is to extend to them, upon as large a scale as comports with the public safety, the freedom of choice, and right of representation. In so extensive a country as this, many parts of which are thinly inhabited, and the election districts consequently including vast tracts of territory, it must often happen that the electors are entirely unacquainted with the person for whom they vote; but if you increase the representation, you reduce the size of the election districts; you bring the candidate within the very neighborhood of the electors; they see him, they know him; they are better enabled to estimate truly his character, and judge of his capacity and disposition to serve them. This, sir, will secure in a great degree, the constituent from imposition, and attach to the Representative a higher and more immediate responsibility; it will inspire the people with confidence in your Government, and induce them more cheerfully to acquiesce in your laws. But, above all, sir, the divisor of thirty thousand leaves throughout the United States a less aggregate of unrepresented fractions than any divisor you can take; less, permit me to say, sir, by one hundred and sixteen thousand, than the one contemplated in the bill; and I am sure gentlemen on all sides of the House wish the country as fairly represented as possible. To my mind this is a most conclusive argument in favor of the divisor of thirty thousand.

The question was now taken on the motion to strike out 33,000, and lost—ayes 11, noes 15.

Mr. MORRIS then moved, and Mr. TRACY seconded the motion to add, after "one representative for every 33,000," the words "and one representative for every fractional number of 27,000 persons." The number 27,000 was used to avoid a violation of the constitution, which prohibits the allotting to each State more representatives than one for every 30,000. Thus, in the case of Delaware, the ratio being 33,000, Delaware would be entitled to one member for 33,000, and one for the fraction of 27,000: both which numbers would amount to 60,000; which last number entitled a State to two members without violating the constitution. This motion was opposed by Messrs. WRIGHT and ANDERSON, and was lost—ayes 10, noes 15.

On the question to agree to the final passage of this bill, it was determined in the affirmative—yeas 23, nays 5, as follows:

YEAS.—Messrs. Anderson, Baldwin, Breckenridge, Brown, Chipman, Cocke, Colhoun, Dayton, Ellery, T. Foster, Dwight Foster, Franklin, Howard, Jackson, Logan, S. T. Mason, J. Mason, Morris, Nicholas, Sheafe, Stone, Sumter, and Wright.

NAYS.—Messrs. Hillhouse, Olcott, Tracy, Wells, and White.

The bill was then read a third time, and passed.

## TUESDAY, January 12

### *Judiciary System.*

The Senate resumed the consideration of the motion made on the 6th instant, "That the act of Congress passed on the 13th day of February, 1801, entitled 'An act to provide for the more convenient organization of the Courts of the United States,' ought to be repealed."

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Mr. JACKSON, of Georgia.—I rise with an impression of awe on the present question; for we must tread on constitutional ground, which should not be lightly touched on, nor too hastily decided. Every step we take ought to be well examined, and our minds convinced before we give that vote which cannot be recalled, and which will fix a principle on Legislative construction, which, perhaps, will prevail as long as we remain a nation.

In the early stage of this discussion, I had almost determined to say nothing, and am at present determined not to say much; but a justification of the vote I shall give, has impelled me to offer my reasons for it to the State I represent; and I have made up my mind, decidedly, to vote for the resolution before you, if I cannot be otherwise convinced.

We have been asked, if we are afraid of having an army of judges? For myself, I am more afraid of an army of judges, under the patronage of the President, than of an army of soldiers. The former can do us more harm. They may deprive us of our liberties, if attached to the Executive, from their decisions; and from the tenure of office contended for, we cannot remove them; while the soldier, however he may act, is enlisted, or if not enlisted, only subsisted for two years; whilst the judge is enlisted for life, for his salary cannot be taken from him. [See 12th division, 8th Section, 1st Art. Constitution.] Sir, it is said these evils will not happen. But what security have we for the truth of the declaration? Have we not seen sedition laws? Have we not heard judges crying out through the land sedition! and asking those whose duty it was to inquire, is there no sedition here? It is true, the sedition law had expired with the last Administration, and he trusted it would not exist, or at least be acted on, under the virtuous Jefferson. But hereafter, if it should exist, your judges, under the cry of sedition and political heresy, may place half your citizens in

irons. I thank God, that no such law now exists, or is likely to exist. I thank God, that we are not now under the influence of an intolerant clergy, as is evident from their abuse of the President; and that we are not under dread of the patronage of judges, is manifest, from their attack on the Secretary of State. And I trust, that we shall long keep this patronage off, by not sanctioning the religious persecution of the clergy on the one hand, nor the political violence of the judges on the other.

But, upon the principles of gentlemen, the law which creates a judge cannot be touched. The moment it is passed, it exists to the end of time. What is the implication of this doctrine? To alter or amend what may greatly require alteration or amendment, it is necessary to return to the creator, and to inquire what this creator is. My principle is, that the creator is the people themselves; that very people of the United States whom the gentleman from New York had declared ourselves to be the guardians of, to save the people themselves from their greatest enemies; and to save whom from destroying themselves he had invoked this House. Good God! is it possible that I have heard such a sentiment in this body? Rather should I have expected to have heard it sounded from the despots of Turkey, or the deserts of Siberia, than to have heard it uttered by an enlightened legislator of a free country, and on this floor.

I am clearly, therefore, of opinion, that if the power to alter the Judiciary system vests not here, it vests nowhere. It follows, from the ideas of gentlemen, that we must submit to all the evils of the present system, though it should exhibit all the horrors of the Inquisition.

But, said Mr. J., gentlemen say the United States embrace a vast extent of territory, from fifteen to seventeen thousand miles in length. What is the inevitable deduction to be drawn from this fact? Why, that a system which is to apply to this extent of country, embracing different laws and different habits, will require frequent alterations: whereas, if we are tied down to a system of inferior tribunals once formed, we cannot even touch the plan of the Judicial system of the little District of Columbia. Nor can we touch the inferior jurisdictions in the North-western Territory, nor in the Mississippi Territory, in both of which the systems were acknowledged to be adapted only to present circumstances, and in the last of which the rights of Georgia were implicated. It follows, that whatever these rights may be, the system is sacred; and, as to the Mississippi Territory, if grounded on this doctrine, notwithstanding the claim of Georgia, her jurisdiction is totally lost. To revert to the sedition law. If the doctrine supported now were true, then, had the sedition law been incorporated as a system by itself, an inferior tribunal, and officers been attached to it, would it have been perpetually tacked to the constitution? That law under which so many of our citizens have been imprisoned for writings and speakings; and one, among others, for wishing that the wadding of a gun had been lodged in a certain Presidential part.

The gentleman had dwelt on the inconveniences and evils of the old system, and had particularly condemned that part of it, which, as he termed it, had converted the judges into post-boys. But I will appeal to the gentleman, if in England, where so much more business is done, there are more than twelve judges, and whether those judges do not ride the circuit? And why shall our judges not ride the circuits? Shall we have six judges sitting here to decide cases which require a knowledge of the laws, the morals, the habits, the state of the property of the several States? Would not this knowledge be much better obtained by their riding the circuits, and in the States themselves, making themselves acquainted with whatever relates to them, and the cases of appeals to come before them? It has been remarked by a celebrated writer on the English Constitution, that one of the greatest political evils that could befall a people, was the existence of large judiciary bodies. To illustrate his ideas, he had instanced the Parliaments of France. If the spirit which last session gave existence to sixteen new judges continued, who could say by what number they would be limited? They might indeed soon become, what they had been likened to, an army of judges.

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I do not wish to be severe in my remarks on the conduct of the late Administration. I admire the private character of Mr. Adams. But I do believe the succession of his political acts tended ultimately to accumulate in, and attach all powers to, a particular person or favorite family.

If I wished to bestow on Mr. Jefferson this mass of patronage, which I contend this horde of officers bestows, I should be in favor of the bill that it is now moved to repeal; but, as a political person, I am no more for Thomas Jefferson than for John Adams. When he acts, according to my opinion, right, I will support him; when wrong, oppose him; and I trust a majority on this floor will act in the same way.

Mr. TRACY, of Connecticut.—Feeble as I am, I have thought it my duty to offer my sentiments on this subject. Owing to severity of indisposition, I have not been in my place, nor have I heard any of the discussion. This circumstance will be my apology, if, in the remarks I shall make, repetitions shall occur on the one hand, and apparent inattention to arguments on the other.

Having been a member of this Government during several years, and being impressed with the difficulties attending the formation of a judiciary system, I have thought proper to give a concise history of Legislative proceedings on this important subject. Permit me to say, sir, that the first institution of such a system must be an experiment. It is impossible to ascertain, until tried, the effects of a system co-extensive with the vast territory of the United States, and which ought to be adapted to the different laws and habits of the different States.

Soon after the first law was enacted, as early as the year 1793, and I believe sooner, complaints were made of the system of circuit courts. The Union then being divided into three circuits, and two of the six judges were obliged to attend each court, if one judge failed, all the business of course was continued to the next term. Judges complained of the distance they had to travel, and suitors and lawyers complained of delays. In 1793, if my memory is correct, the law passed

allowing one judge to attend with the district judge in each district, with some other modifications not important in the present view of the subject. If, by reason of distance, badness of roads, sickness, or any other accident, this one judge failed of attendance, or if he and the district judge differed on any point, a delay was occasioned. If the same judge attended the same circuit at the next term, another delay, and so on, till experience taught us, that some alteration in the system was requisite. It will be recollected, that the judges had to travel over this extensive country twice in each year, and to encounter the extremes of both heat and cold. Of this they complained; but this was not all; the business was not done.

Although this subject had been recommended before, and committees had contemplated a revision and alteration of the system, I do not remember that a bill had ever been presented to either House of Congress until 1799. In that session, a bill was reported similar in its features to the act which passed last session. It might have been acted upon in the House of Representatives; of this, however, I am not confident; but I recollect it was printed, and the members of both Houses had it before them; and at the last session, with some alterations and amendments, it was enacted into a law. I believe all parties wished for a revision and amendment of the system, in respect to circuit courts; the difference of opinion was principally this: some supposed an increase of the Judges of the Supreme Court to such a number as would render the duties of the circuit practicable for them, and provide for the completion of business, would be the best amendment; the others thought the law, as it passed, was preferable.

I acknowledge, that in deliberating upon this subject, we always assumed the principle, that the establishment of courts was important to protect the rights of the people; we did not fear an army of judges, as has been hinted by the gentleman last up, (Mr. JACKSON.) In this opinion we might be mistaken, but we were honest in our professions. Although some believed, that more of the business of the United States might be confided to the State courts; yet it is not within my recollection, that the question was considered, in any measure; a party question. I am confident, that at the session of 1799, and for a long time before that, the friends of this law, which eventually passed last winter, could not, nor did not, contemplate any change of administration. A revision of the system was long a subject of deliberation; we believed an increase of circuit judges, to the number requisite to perform the duties, would be an inconvenient increase of the Supreme Court; and though it was desirable for the Judges of the Supreme Court to see the people and be seen of them, yet the preference was given to the system now proposed to be repealed. We supposed it would be an evil to increase the number of Judges of the Supreme Court to thirteen, fifteen, or seventeen. A court which is to act together, should not be numerous; on this subject, all men have agreed; here may be danger of an "army of judges," as the gentleman says; for although in Great Britain the twelve judges are sometimes called to give an opinion, yet no man will feel equal confidence in a tribunal of judges for the business of a court, consisting of many as of few; from three to five, the good sense and experience of all nations, has declared to be about the proper number; and we thought it conducive to the general good, to establish tribunals in such manner as to carry justice to the door of every man.

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Is this system so very vicious, that it deserves nothing but abhorrence and destruction? It costs us a little more than thirty thousand dollars, and by it the number of circuit judges is increased to sixteen; and by it likewise is contemplated reducing the number of supreme judges to five, when it can constitutionally be done. Is the expense an object, when by that expense, we extend the jurisdiction of a court over this vastly extensive, growing country, and carry law and protection to every man? This country is in a singular condition; a great tract of unsettled lands is peopling with rapidity, and numerous emigrations increase our population far beyond its natural increase; is it not of importance that courts should be located among them, early, to correct the restless spirit which is frequent in new and scattered settlements? And are not the emigrations composed of such as require the prompt assistance of the law, to preserve among them regularity? Punishment, to us, and to all good men, should be a strange work; but to prevent crimes, is the work of a God. I speak to gentlemen, who have many of them graced the judge's bench, and adorned the professional robe they have worn, and am therefore not obliged to be particular that I may be understood; a word to the wise will be sufficient. A judiciary, in a national point of view, is absolutely necessary, and an extension of it to every national purpose, is equally necessary. To depend upon State courts, not under obligations, nor amenable to you, besides having as much business allotted to them by the respective States as they can accomplish, and depending, upon them, and not on us, for existence—will require only to be mentioned, to be exploded. Locating your judges in various parts of the country, by them promulgating the national laws, which it is well known has been a subject of great difficulty, and giving them daily opportunity of mixing with people, not well disposed to order and law; may prevent disorders and insurrections, and save millions of expense, which pecuniary saving will be the least of the important events arising from such a system.

But there is another objection to the repeal of the judiciary law, which in my mind is conclusive: I mean the letter and spirit of the constitution.

In the formation of every Government, in which the people have a share in its administration, some established and indisputable principles must be adopted. In our Government, the formation of a Legislative, Executive, and Judiciary power, is one of the incontrovertible principles; and that each should be independent of the other, so far as human frailty will permit, is equally incontrovertible. Will it be expected, that I should quote Sidney, De Lolme, Montesquieu, and a host of elementary writers, to prove this assertion? There is, probably, no conflict of opinion upon this subject. When we look into our constitution of Government, we shall find, in every part of it, a close and undeviating attention to this principle. Our particular form is singular in its

requirements; that full force and operation be given to this all-important principle. Our powers are limited, many acts of sovereignty are prohibited to the National Government, and retained by the States; and many restraints are imposed upon State sovereignty. If either, by accident or design, should exceed its powers, there is the utmost necessity that some timely checks, equal to every exigency, should be interposed. The Judiciary is established by the constitution for that valuable purpose.

In the British Government, the Legislature is omnipotent to every legislative effect, and is a perpetual convention for almost every constitutional purpose. Hence it is easy to discern the different parts which must be assigned to the Judiciary in the two kinds of government. In England, the Executive has the most extensive powers; the sword or the military force; the right of making war, and in effect the command of all the wealth of the nation, with an unqualified veto to every legislative act. It is, therefore, rational for that nation to preserve their judiciary completely independent of their Sovereign. In the United States, the caution must be applied to the existing danger; the Judiciary are to be a check on the Executive, but most emphatically to the Legislature of the Union, and those of the several States. What security is there to an individual, if the Legislature of the Union, or any particular State, should pass a law, making any of his transactions criminal which took place anterior to the date of the law? None in the world, but by an appeal to the Judiciary of the United States, where he will obtain a decision that the law itself is unconstitutional and void, or by a resort to revolutionary principles, and exciting a civil war. With a view to those principles, and knowing that the framers of our constitution were fully possessed of them, let us examine the instrument itself. Article third, section first: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office." Are there words in the English language more explicit? Is there any condition annexed to the judge's tenure of office, other than good behavior? Of whom shall your judges be independent? We are led to an erroneous decision on this, as well as many other governmental subjects, by constantly recurring to Great Britain. That their courts should be independent of their Sovereign, is an important object; he is the fountain of honor and power, and can do no wrong; our President, at least for several years past, has been considered as the fountain of dishonor and weakness, and if there was any maxim upon the subject, it was that he could do no right. Of course the great object of the independence of the Judiciary must here have reference not only to our Executive, but our Legislature. The Legislature with us is the fountain of power. No person will say that the Judges of the Supreme Court can be removed, unless by impeachment and conviction of misbehavior; but the judges of the inferior courts, as soon as ordained and established, are placed upon precisely the same grounds of independence with the Judges of the Supreme Court. Congress may take their own time to ordain and establish, but the instant that is done, all the rights of independence attach to them.

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If this reasoning is correct, can you repeal a law establishing an inferior court, under the constitution? Will it be said, that although you cannot remove the judge from office, yet you can remove his office from him? Is murder prohibited, and may you shut a man up, and deprive him of sustenance, till he dies, and this not be denominated murder? The danger in our Government is, and always will be, that the Legislative body will become restive, and, perhaps, unintentionally break down the barriers of our constitution. It is incidental to man, and a part of our imperfections, to believe that power may be safely lodged in our hands. We have the wealth of the nation at command, and are invested with almost irresistible strength; the Judiciary has neither force nor wealth to protect itself. That we can, with propriety, modify our judiciary system, so that we always leave the Judges independent, is a correct and reasonable position; but if we can, by repealing a law, remove them, they are in the worst state of dependence.

**WEDNESDAY, January 13.**

***The Judiciary System.***

The Senate resumed the consideration of the motion made on the 6th inst. that the act of Congress passed on the 13th day of February, 1801, entitled "An act to provide for the more convenient organization of the Courts of the United States," ought to be repealed.

Mr. MASON, of Virginia.—I feel some degree of embarrassment in offering my sentiments on a subject so fully and so ably discussed. I believe that the ground taken by my friend from Kentucky has not been shaken by any arguments urged in opposition to the resolution on the table. Yet as some observations have been made, calculated to excite sensibility, not here, but abroad; as they appear to have been made with a view to that end; and as an alarm has been attempted to be excited on constitutional ground, I think the observations ought not to go unnoticed.

I agree with gentlemen, that it is important, in a well-regulated government, that the judicial department should be independent. But I have never been among those who have carried this idea to the extent which seems at this day to be fashionable. Though of opinion that each department ought to discharge its proper duties free from the fear of the others, yet I have never believed that they ought to be independent of the nation itself. Much less have I believed it proper, or that our constitution authorizes our courts of justice to control the other departments of the Government.

All the departments of a popular government must depend, in some degree, on popular opinion.

None can exist without the affections of the people, and if either be placed in such a situation as to be independent of the nation, it will soon lose that affection which is essential to its durable existence.

Without, however, going into an inquiry of what kind of organization is most fit for our tribunals; without inquiring into the fitness of making the judges independent for life, I am willing to enter into a consideration, not of what ought to be, but of what is. Whatever opinion I may individually entertain of the provisions of the constitution relative to the Judiciary, sitting here under that constitution, I am bound to observe it as the charter under which we are assembled.

When I view the provisions of the constitution on this subject, I observe a clear distinction between the Supreme Court and other courts. I am sensible that when we come to make verbal criticisms, any gentleman of a sportive imagination may amuse our fancies by a play upon words. But this is not the way to get rid of a genuine construction of the constitution. With regard to the institution of the Supreme Court, the words are imperative; while, with regard to inferior tribunals, they are discretionary. The first shall, the last may be established. And surely we are to infer from the wise sages that formed that constitution, that nothing was introduced into it in vain. Not only sentences, but words, and even points, elucidate its meaning. When, therefore, the constitution, using this language, says a Supreme Court shall be established, are we not justified in considering it as of constitutional creation? And on the other hand, from the language applied to inferior courts, are we not justified in considering their establishment as dependent upon the Legislature, who may, from time to time, ordain them, as the public good requires? Can any other meaning be applied to the words "from time to time?" And nothing can be more important on this subject than that the Legislature should have power, from time to time, to create, to annul, or to modify the courts, as the public good may require, not merely to-day, but for ever; and whenever a change of circumstances may suggest the propriety of a different organization. On this point, there is great force in the remark of the gentleman from Georgia, that among the enumerated powers given to Congress, while there is no mention made of the Supreme Court, the power of establishing inferior courts is expressly given. Why this difference, but that the Supreme Court was considered by the framers of the constitution, as established by the constitution, while they considered the inferior courts as dependent upon the will of the Legislature.

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If the arguments now urged be correct, that a court once established cannot be vacated, we are led into the greatest absurdities. Congress might deem it expedient to establish a court for particular purposes, limited as to its objects or duration. For instance: the United States has taken possession of the Mississippi Territory, rightfully or not, I will not pretend to say. This territory has been heretofore in the hands of various masters, viz: France, England, Spain, and Georgia; and it is now possessed by the United States. All these Governments, except the United States, made certain grants of lands in the territory, and certain settlers spread their conflicting patents over the country. These different titles will open a wide field for litigation, which will require able tribunals to decide upon. Suppose, then, Congress should establish special tribunals to continue for three, four, or five years, to settle these claims. Judges would be appointed. They would be the judges of an inferior court. If the construction of the constitution now contended for be established, what would the judges say, when the period for which they were appointed expired? Would they not say, we belong to inferior courts? Would they not laugh at you when you told them their term of office was out? Would they not say, in the language of the gentleman from New York, though the law that creates us is temporary, we are in by the constitution? Have we not heard this doctrine supported in the memorable case of the mandamus, lately before the Supreme Court? Was it not there said that, though the law had a right to establish the office of a justice of the peace, yet it had not a right to abridge its duration to five years; that it was right in making the justices, but unconstitutional in limiting their periods of office; that, being a judicial officer, he had a right to hold his office during life—or, what is the same thing—during good behavior, in despite of the law which created him, and, in the very act of creation, limiting his official life to five years.

I may notice another case, more likely to happen, to show the absurdity of this construction. Congress have assumed jurisdiction over the Mississippi Territory, and have established a court, composed of three judges, which court is as much an inferior court as the circuit or district courts. Of this jurisdiction Georgia denies the validity. The contest is in a train of settlement. Suppose it shall turn out that the United States are convinced of the injustice of their claim, relinquish it, and restore the territory to Georgia, what becomes of the judges? Their offices, their duties, are gone! Yet they will tell you, we are vested with certain constitutional rights, of which you cannot deprive us. It is true the territory is no longer yours. You have no jurisdiction, we have no power, yet we are judges by the constitution. We hold our offices during good behavior, and we will behave well as long as you will let us. Is not this a strange situation? You have judges in a territory over which you have no jurisdiction; and you have officers which are perfect sinecures, pensioners for life. Such an absurdity I am sure the constitution never meant to justify. It is an absurdity equally repugnant to the letter and genius of the constitution.

But it would seem that the argument urged on this occasion, and the general course of our legislation, had been grounded more on the convenience and emoluments of those appointed to office, than on grounds of public utility. First, we appointed six judges of the Supreme Court, divided the United States into three circuits, two judges to ride each circuit, in which, with the district judge, to form a court. The law fixed the duties and the compensation, and gentlemen of the first character were ready to accept the places. The salaries indeed had been thought high; in some parts of the Union they were thought enormous. But a little time passed before they complained of the hardships of their duties; and the law was altered, not so much for the public

good as for their personal convenience. Where two judges were required to hold a court, one was now declared sufficient. Thus you continued their full salaries, while you lopped off half their duties. Shortly after you assigned them, under the pension law, inconsiderable duties; and they refused to perform them. Thus, while they showed themselves ready to abate of their duties, they adhered to their salaries. Next came the law of last session, which takes away all their duties. It leaves them simply a court of appeals. And what have they got to do? To try ten suits; for such is the number now on their docket, as appears from a certificate just put into my hands; and the average number on their docket amounts to from eight to ten. Thus, for the trial of the immense number of eight or ten suits, you have six judges, one with a salary of four thousand, and five others with salaries of three thousand five hundred dollars each.

I fear, said Mr. M., that if you take away from these judges that which they ought officially to do, they will be induced, from the want of employment, to do that which they ought not to do; they may do harm. They may be induced, perhaps, to set about that work gentlemen seem so fond of. They may, as gentlemen have told us, hold the constitution in one hand, and the law in the other, and say to the departments of Government, so far you shall go and no farther. This independence of the Judiciary, so much desired, will, I fear, sir, if encouraged or tolerated, soon become something like supremacy. They will, indeed, form the main pillar of this goodly fabric; they will soon become the only remaining pillar, and they will presently become so strong as to crush and absorb all the others into their solid mass.

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We, have been told, that no State in the Union has presumed to touch the Judiciary establishment, except the State of Maryland. I will not answer for others; but, with respect to Virginia, I will answer that she has touched it. Her constitutional provision for the independence of the judges is nearly similar to that of the United States, and yet she has established, modified, and entirely put down particular departments of her system.

Notwithstanding the remarks of gentlemen, I am inclined to think these ideas of the extreme independence of the judges, and the limited powers of the Legislature, are not very old, but that they are of modern origin, and have grown up since the last session of Congress. For, in the law passed last session, that very law which it is now proposed to repeal, is to be found a practical exposition in direct hostility with the principle now contended for, which does not betray that sacred regard for the office of a judge, that is, on this occasion, professed: in that very law will be found a clause which abolishes two district courts. The words of the twenty-fourth section say, expressly, "the district courts of Kentucky and Tennessee shall be and hereby are abolished." Will gentlemen tell this House how this express provision came into the act of the last session; and will they say, that though they voted for this law, yet no power exists in the Legislature to abolish a court? It is true, that it has been said that, though you put down two district courts, you promoted the officers, by increasing their salaries and making them judges of the circuit courts; but the fact is, you have abolished their offices; they are judges no longer of the districts of Kentucky and Tennessee; and they are to every purpose, whatever may be their name, in reality circuit judges. Though you have not lessened their salaries, you have deprived them of their offices. However, therefore, gentlemen may calculate as to the benefit or injury done these two judges, the principle is not affected by any result; their offices are gone. It is not enough to say, that though you destroyed their offices, you offered them others with higher salaries. You took away from them, in express terms, their offices, by abolishing the offices. You had stripped them of their offices, you had robbed them of their vested right, and then, to make friends, offered them a compensation; but whether the compensation thus offered for the deprivation they had suffered, was really equivalent to their loss, is a mere matter of calculation, and does not affect the constitutional principle. It is proper, however, to observe, that they were no parties to the proposed compromise, and that indeed they had no choice left them. They were obliged to accept of what you offered them, or have nothing. If they did not agree to become judges of the newly organized circuit courts, they could not remain judges of the district courts, for these courts were absolutely and completely abolished.

By the seventh section of the law of the last session, which transforms the district into circuit courts, which melts down the judges and recoins them, it is enacted, that there shall be a circuit court, composed of one new circuit judge and two old district judges, to be called the Sixth Circuit. Have you not then established a new office by the destruction of the old one? Have you not done more? Have you not violated the constitution, by declaring, by law, who shall fill this new office, though the constitution declares, article second, section two, "That the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers which shall be established by law."

Where were these guardians of the constitution—these vigilant sentinels of our rights and liberties, when this law passed? Were they asleep on their post? Where was the gentleman from New York, who has, on this debate, made such a noble stand in favor of a violated constitution? Where was the *Ajax Telamon* of his party, or, to use his own more correct expression, the *faction* to which he belonged? Where was the hero with his seven-fold shield—not of bull's hide, but of brass—prepared to prevent or to punish this Trojan rape, which he now sees meditated upon the constitution of his country by a wicked *faction*? Where was Hercules, that he did not crush this den of robbers that broke into the sanctuary of the constitution? Was he forgetful of his duty? Were his nerves unstrung? Or was he the very leader of the band that broke down these constitutional ramparts?

I shall now, sir, trouble you with a few remarks on the expediency of repealing this law. It has been said, that there is nothing peculiarly disgusting in this law; that there has been no public clamor excited against it; that it was enacted with solemnity, on calm and deliberate reflection;



and that time has not yet been given to test it by experience.

As no member, who has taken part in debate, was a member of this body when the law passed, I will say something of its history. I am not disposed to excite the sensibility of gentlemen, by any remarks which I shall make, or to call up unpleasant recollections of past scenes. But when I hear it said that this law was passed with calmness, after mature reflection, and that we are now, in a fit of passion, going to undo what was thus wisely done, I think it necessary that the public should have a correct statement.

It is true, that under the last Administration, when there existed (what I trust will never, in an equal degree, exist again,) an immoderate thirst for Executive patronage, a proposition was made to establish a new judiciary system; a system worse than the present; as it proposed, according to my recollection, thirty-eight judges instead of sixteen. This law was very near passing. It was, however, rejected in the House of Representatives by a very small majority. But it was circulated as a project of a law among the people. It was illy received. It was thought too rank a thing, and met with general disapprobation throughout the United States, so far as I have been able to learn. After this reception, it was softened down to the plan introduced at the last session. What temper accompanied the progress of the bill in the other House I know not, or, if I did know, would it be proper for me here to say? But with respect to the acts of this body, I am not of opinion they added any dignity to our common course of procedure. The bill was referred to a committee, who, although it was very long, reported it without any amendment. Various amendments were offered, some of which were admitted to be proper. But they were not received. One, indeed, proposed by a member from Connecticut, who was chairman of the committee, and was then hostile to the plan, did pass in the early stages of the bill, but on the third reading it was expunged. All amendments proposed by the minority were uniformly rejected by a steady, inflexible, and undeviating majority. I confess that I saw no passion, but I certainly did see great pertinacity; something like what the gentleman from Connecticut had termed a *holding fast*. No amendments were admitted; when offered, we were told, no; you may get them introduced by a rider or supplementary bill, or in any way you please; but down this bill must go; it must be crammed down your throats. This was not the precise phrase, but such was the amount of what was said.

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I will say that not an argument was urged in favor of the bill, not a word to show the necessity or propriety of the change. Yet we are told that there was great dignity, great solemnity in its progress and passage!

But there is something undignified in thus hastily repealing this law! in thus yielding ourselves to the fluctuations of public opinion! So we are told!—But if there be blame, on whom does it fall? Not on us, who respected the public opinion when this law was passed, and who still respect it; but on those who, in defiance of public opinion, passed this law, after that public opinion had been decisively expressed. The revolution in public opinion had taken place before the introduction of this project; the people of the United States had determined to commit their affairs to new agents; already had the confidence of the people been transferred from their then rulers into other hands. After this exposition of the national will, and this new deposit of the national confidence, the gentlemen should have left untouched this important and delicate subject—a subject on which the people could not be reconciled to their views, even in the flood-tide of their power and influence; they should have forborne, till agents, better acquainted with the national will, because more recently constituted its organs, had come into the Government. This would have been more dignified than to seize the critical moment when power was passing from them, to pass such a law as this. If there is error, it is our duty to correct it; and the truth was, no law was ever more execrated by the public.

Let it not be said, postpone the repeal till the next session. No—let us restore those gentlemen to private life, who have accepted appointments under this law. This will be doing them greater justice, than by keeping them in office another year, till the professional business, which once attached to them, is gone into other channels.

Mr. STONE, of North Carolina.—Before entering into an examination of the expediency of the repeal, it may be proper to remark, that gentlemen who have spoken against the repeal, whose talents and eloquence I highly admire, have not correctly stated the question. The true question is, not whether we shall deprive the people of the United States of all their courts of justice, but whether we shall restore to them their former courts. Shall we, or shall we not, continue an experiment made, or attempted to be made, I will not say improperly, because my respect for this body and for my country, forbid the imputation; but I will say that the length of time we remained without this system, and the repeated ineffectual attempts made to establish it, present strong reasons for inferring that there are not those great apparent reasons in favor of it, that have been stated. A system somewhat similar to the present had been rejected by the Legislature, because they preferred the former system. Another evidence to the same purport is, that during the last session, when the subject was again revived, and the present plan adopted, an amendment was offered, to amend by extending and enlarging the former establishment.

[Here Mr. S. read the amendment proposed, which augmented the number of judges of the Supreme Court, and assigned their circuits.]

This amendment was rejected, and from the vote entered on the journal of that day, it appears that the difference of votes against the amendment was formed of those gentlemen who were nominated to appointments made vacant by the promotions under the new law. I do not state this circumstance as an evidence that these gentlemen were influenced by improper motives; but to show that the manner in which the new system was formed, was not calculated to establish, in

the public mind, a decided preference of it over the old system. Having made these remarks on the great deliberation said to have been manifested in the adoption of this plan, I hope I may be permitted to express my perfect coincidence with the gentleman from Connecticut, that courts are necessary for the administration of justice, and that, without them, our laws would be a dead letter.

But it appears to me essential to the due administration of justice, that those who preside in our courts should be well acquainted with the laws which are to guide their decisions. And, I apprehend, that no way is so much calculated to impart this knowledge, as a practical acquaintance with them, by attending courts in the several States, and hearing gentlemen who are particularly acquainted with them, explain and discuss them. It is, therefore, absolutely necessary, in my mind, that the Judges of the Supreme Court, whose power controls all the other tribunals, and on whose decisions rest the property, the reputation, the liberty, and the lives of our citizens, should, by riding the circuit, render themselves practically acquainted with their duties. It is well known, that the knowledge of the laws of a State, is not to be suddenly acquired, and it is reasonable to conclude, that that knowledge is most correctly possessed by men whose whole lives have been devoted to the acquisition. It is also perfectly well known, that the knowledge of the modes and principles of practice in the different States, or of any State, is most effectually to be acquired in courts, where gentlemen of skill and experience apply those principles to use upon existing points.

This defect, then, of the present plan, is, in my opinion, so radical, that, of itself, it would decide, with me, the question of expediency.

To what source, then, shall we resort for a knowledge of what constitutes this thing, called misbehavior in office? The constitution, surely, did not intend that a circumstance so important as the tenure by which the judges hold their offices, should be incapable of being ascertained. Their misbehavior, certainly, is not an impeachable offence; still it is the ground upon which the judges are to be removed from office. The process of impeachment, therefore, cannot be the only one by which the judges may be removed from office, under, and according to the constitution. I take it, therefore, to be a thing undeniable, that there resides somewhere in the Government, a power to declare what shall amount to misbehavior in office, by the judges, and to remove them from office for the same, without impeachment. The constitution does not prohibit their removal by the Legislature, who have the power to make all laws necessary and proper for carrying into execution the powers vested by the constitution in the Government of the United States. But, says the gentleman from New York, the judges are officers instituted by the constitution, to save the people from their greatest enemies, themselves; and therefore, they should be entirely independent of, and beyond the control of the Legislature. If such was the design of the wise men who framed and adopted the constitution, can it be presumed they would have provided so ineffectual a barrier, as these judges can readily be shown to be? It is allowed, on all hands, the Legislature may modify the courts; they may add judges, they may fix the times at which the courts shall sit, &c. Suppose the Legislature to have interests distinct from the people, and the judges to stand in the way of executing any favorite measure—can any thing be more easy than for the Legislature to declare that the courts, instead of being held semi-annually, or oftener, shall be held only once in six, eight, ten, or twenty years? Or, in order to free themselves from the opposition of the present Supreme Court, to declare, that court shall hereafter be held by thirteen judges. An understanding between the President and the Senate, would make it practicable to fill the new offices with men of different views and opinions from those now in office. And what, in either case, would become of this boasted protection of the people against themselves? I cannot conceive the constitution intended so feeble a barrier; a barrier so easily evaded.

It is not alone the sixteen rank and file, which the gentleman from New York has so ludicrously depicted, that I apprehend immediate danger from, but it is the principle which converts the office of judge into a hospital of incurables, and declares, that an expiring faction, after having lost the public confidence, may add to those sixteen, until they become sixteen hundred or sixteen thousand; and that the restored good sense of the Legislature, the whole Government and constitution, retains no means of casting them off, but by destroying itself, and resorting to revolutionary principles. The Legislature may repeal unnecessary taxes, may disband useless and expensive armies, may declare they will no longer be bound by the stipulations of an oppressive treaty; and if war should follow, the constitution is still safe. But if the construction which gentlemen contend for, be correct, a band of drones, to any amount in number, under the denomination of judges, may prey upon the substance of the people, and the Government retains not the power to remove them but by destroying the constitution itself.

**THURSDAY, January 14.**

***Judiciary System.***

The Senate resumed the consideration of the motion made on the 6th instant, that the act of Congress passed on the 13th day of February, 1801, entitled "An act to provide for the more convenient organization of the Courts of the United States," ought to be repealed.

Mr. OLCOTT, of New Hampshire, said this subject was of the most important kind, and though many able arguments had been already offered, he could not pass it over with a silent vote.

It has been suggested that the act now proposed to be repealed, came in on the influx of passion,

and that the influx of reason should sweep it away. He did not know that this was the case. Some gentlemen contend that it was adopted with great deliberation.

He thought the reasons for a repeal of this law insufficient. It is not said, that if the constitution vests a right to office in the judges, that we can affect them. He thought the constitution did vest the right, and he held it to be sacred.

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The provisions of the constitution appeared to him so plain, that they scarcely admitted of illustration. He who undertakes to explain the text, must find more explicit terms than those contained in it. He could not find any.

After dwelling upon the different provisions of the constitution, Mr. O. went upon the question of expediency, at some length, and concluded that a repeal was as inexpedient as unconstitutional.

Mr. COCKE, of Tennessee, followed Mr. OLCOTT. He said he was sorry gentlemen attempted to make quack doctors of them, by saying we may give a wound, but cannot heal it. He wished the Senate to inquire whether the law now proposed to be repealed was constitutional or not. If it was not, we should act like honest men, acknowledge that we have violated the constitution, and restore it to its purity by repealing the law. Let us recur to the journals of 1799, and see what was the understanding of these champions of our liberties, and whether they have not since changed. The journals would prove that the judges were to mix with the Legislature, were to be locked up in a closet, and to declare who was to be our Executive Magistrate.

[Mr. COCKE here went into an examination of the arguments on the constitutional point.]

We have been told that the nation is to look up to these immaculate judges to protect their liberties; to protect the people against themselves. This was novel, and what result did it lead to? He shuddered to think of it. Were there none of these judges ready to plunge their swords in the American heart? He did not think it proper to be alarmed by the terrors held out. He wished to know no man; to take things as they are. But if gentlemen will attack, they must expect a reply.

Mr. COCKE then dilated upon the several points of the discussion, and concluded with the expression of the hope that the Legislature would repeal the law, and that they would not give way to the ideas of gentlemen, that the Government was made for a chosen few, for the judges, to whom we are to look up for every thing.

Mr. MORRIS.—Mr. President, I had fostered the hope that some gentleman, who thinks with me, would have taken upon himself the task of replying to the observations made yesterday and this morning, in favor of the motion on your table. But since no gentleman has gone so fully into the subject, as it seems to require, I am compelled to request your attention.

After these preliminary remarks, I hope I shall be indulged while I consider the subject in reference to the two points which have been taken, the *expediency* and the *constitutionality* of the repeal.

In considering the *expediency*, I hope I shall be pardoned for asking your attention to some parts of the constitution, which have not yet been dwelt upon, and which tend to elucidate this part of our inquiry. I agree fully with the gentleman, that every section, every sentence, and every word of the constitution, ought to be deliberately weighed and examined; nay, I am content to go along with him, and give its due value and importance to every stop and comma. In the beginning, we find a declaration of the motives which induced the American people to bind themselves by this compact. And in the fore-ground of that declaration, we find these objects specified, "to form a more perfect union, to establish justice, and to ensure domestic tranquillity." But how are these objects effected? The people intended to *establish justice*. What provision have they made to fulfil that intention? After pointing out the courts which should be established, the second section of the third article informs us:

"The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

Thus then we find that the judicial power shall extend to a great variety of cases, but that the Supreme Court shall have only appellate jurisdiction in all admiralty and maritime causes, in all controversies between the United States and private citizens, between citizens of different States, between citizens of the same State claiming lands under different States, and between a citizen of the United States and foreign states, citizens, or subjects. The honorable gentleman from Kentucky, who made the motion on your table, has told us that the constitution, in its judiciary provisions, contemplated only those cases which could not be tried in the State courts. But he will, I hope, pardon me when I contend that the constitution did not merely contemplate, but did, by express words, reserve to the national tribunals a right to decide, and did secure to

the citizens of America, a right to demand their decision, in many cases evidently cognizable in the State courts. And what are these cases? They are those in respect to which it is by the constitution presumed that the State courts would not always make a cool and calm investigation, a fair and just decision. To form, therefore, a more perfect union, and to ensure domestic tranquillity, the constitution has said there shall be courts of the Union to try causes, by the wrongful decision of which the Union might be endangered or domestic tranquillity be disturbed. And what courts? Look again at the cases designated. The Supreme Court has no original jurisdiction. The constitution has said that the judicial powers shall be vested in the supreme and inferior courts. It has declared that the judicial power so vested shall extend to the cases mentioned, and that the Supreme Court shall not have original jurisdiction in those cases. Evidently, therefore, it has declared that they shall (in the first instance) be tried by inferior courts, with appeal to the Supreme Court. This, therefore, amounts to a declaration, that the inferior courts shall exist. Since, without them, the citizen is deprived of those rights for which he stipulated, or rather those rights verbally granted, would be actually withheld; and that great security of our Union, that necessary guard of our tranquillity, be completely paralyzed, if not destroyed. In declaring, then, that these tribunals shall exist, it equally declares that the Congress shall ordain and establish them. I say they shall; this is the evident intention, if not the express words, of the constitution. The convention in framing, the American people in adopting, that compact, did not, could not presume, that the Congress would omit to do what they were thus bound to do. They could not presume, that the Legislature would hesitate one moment, in establishing the organs necessary to carry into effect those wholesome, those important provisions.

The honorable member from Virginia has given us a history of the judicial system, and in the course of it has told us, that the Judges of the Supreme Court knew, when they accepted their offices, the duties they had to perform, and the salaries they were to receive. He thence infers, that if again called on to do the same duties, they have no right to complain. Agreed: but that is not the question between us. Admitting that they have made a hard bargain, and that we may hold them to a strict performance, is it wise to exact their compliance to the injury of our constituents? We are urged to go back to the old system; but let us first examine the effects of that system. The Judges of the Supreme Court rode the circuits, and two of them, with the assistance of a district judge, held circuit courts and tried causes. As a Supreme Court, they have in most cases only appellate jurisdiction. In the first instance, therefore, they tried a cause, sitting as an inferior court, and then on appeal tried it over again, as a Supreme Court. Thus, then, the appeal was from the sentence of the judges to the judges themselves. But say, that to avoid this impropriety, you will incapacitate the two judges who sat on the circuit, from sitting in the Supreme Court to review their own decrees. Strike them off; and suppose either the same or a contrary decision to have been made on another circuit, by two of their brethren, in a similar case. For the same reason you strike them off, and then you have no court left. Is this wise? Is it safe? You place yourselves in the situation where your citizens must be deprived of the advantage given to them of a court of appeals, or else run the greatest risk that the decision of the first court will carry with it that of the other.

The same honorable member has given us a history of the law passed the last session, which he wishes now to repeal. That history is accurate, at least in one important part of it. I believe that all amendments were rejected, pertinaciously rejected; and I acknowledge that I joined heartily in that rejection. It was for the clearest reason on earth. We all perfectly understood, that to amend the bill was to destroy it; that if ever it got back to the other House, it would perish. Those, therefore, who approved of the general provisions of that bill, were determined to adopt it. We sought the practicable good, and would not, in pursuit of unattainable perfection, sacrifice that good to the pride of opinion. We took the bill, therefore, with its imperfections, convinced that when it was once passed into a law, it might be easily amended.

We are now told, that this procedure was improper; nay, that it was indecent. That public opinion had declared itself against us. That a majority (holding different opinions) was already chosen to the other House; and that a similar majority was expected from that in which we sit. Mr. President, are we then to understand that opposition to the majority in the two Houses of Congress, is improper, is indecent? If so, what are we to think of those gentlemen, who, not only with proper and decent, but with laudable motives, (for such is their claim,) so long, so perseveringly, so pertinaciously opposed that voice of the people, which had so repeatedly, and for so many years, declared itself against them, through the organ of their representatives? Was this indecent in them? If not, how could it be improper for us to seize the only moment which was left for the then majority to do what they deemed a necessary act? Let me again refer to those imperious demands of the constitution, which called on us to establish inferior courts. Let me remind gentlemen of their assertion on this floor, that centuries might elapse before any judicial system could be established with general consent. And then let me ask, being thus impressed with the sense of the duty and the difficulty of performing that arduous task, was it not wise to seize the auspicious moment?

Among the many stigmas affixed to this law, we have been told that the President, in selecting men to fill the offices which it created, made vacancies and filled them from the floor of this House; and that but for the influence of this circumstance, a majority in favor of it could not have been found. Let us examine this suggestion. It is grounded on a supposition of corrupt influence derived from a hope, founded on two remote and successive contingencies. First, the vacancy might or might not exist; for it depended as well on the acceptance of another, as on the President's grant; and secondly, the President might or might not fill it with a member of this House. Yet, on this vague conjecture, on this unstable ground, it is inferred that men in high

confidence violated their duty. It is hard to determine the influence of self-interest on the heart of man. I shall not, therefore, make the attempt. In the present case, it is possible that the imputation may be just, but I hope not, I believe not. At any rate gentlemen will agree with me, that the calculation is uncertain, and the conjecture vague.

But let it now, for argument sake, be admitted, saving always the reputation of honorable men, who are not here to defend themselves. Let it, I say, for argument sake be admitted, that the gentlemen alluded to acted under the influence of improper motives. What then? Is a law that has received the varied assent required by the constitution, and is clothed with all the needful formalities, thereby invalidated? Can you impair its force by impeaching the motives of any member who voted for it? Does it follow, that a law is bad because all those who concurred in it cannot give good reasons for their votes? Is it not before us? Must we not judge of it by its intrinsic merit? Is it a fair argument, addressed to our understanding, to say, we must repeal a law, even a good one, if the enacting of it may have been effected in any degree by improper motives? Or is the judgment of this House so feeble, that it may not be trusted?

Let us, however, examine the clause objected to on the ground of the constitution. It is said, that by this law the district judges in Tennessee and Kentucky are removed from office, by making them circuit judges. And again, that you have by law appointed two new offices, those of circuit judges, and filled them by law, instead of pursuing the mode of appointment prescribed by the constitution. To prove all this, the gentleman from Virginia did us the favor to read those parts of the law which he condemns, and if I can trust to my memory, it is clear, from what he read, that the law does not remove these district judges, neither does it appoint them to the office of circuit judges. It does indeed put down the district courts; but it is so far from destroying the offices of district judge, that it declares the persons filling those offices shall perform the duty of holding the circuit courts. And so far is it from appointing circuit judges, that it declares the circuit courts shall be held by the district judges. But gentlemen contend, that to discontinue the district courts, was in effect to remove the district judge. This, sir, is so far from being a just inference from the law, that the direct contrary follows as a necessary result; for it is on the principle that these judges continue in office after their courts are discontinued, that the new duty of holding other courts is assigned to them. But, gentlemen say, this doctrine militates with the principles we contend for. Surely not. It must be recollected, sir, that we have repeatedly admitted the right of the Legislature to change, alter, modify, and amend the judiciary system, so as best to promote the interests of the people. We only contend that you shall not exceed or contravene the authority by which you act. But, say gentlemen, you forced this new office on the district judges, and this is in effect a new appointment. I answer, that the question can only arise on the refusal of those judges to act. But is it unconstitutional to assign new duties to officers already existing? I fear that if this construction be adopted, our labors will speedily end; for we shall be so shackled, that we cannot move. What is the practice? Do we not every day call upon particular officers to perform duties not previously assigned to, or required of them? And must the Executive in every such case make a new appointment?

But as a further reason to restore, by repealing this law, the old system, an honorable member from North Carolina has told us, the judges of the Supreme Court should attend in the States, to acquire a competent knowledge of local institutions, and for this purpose should continue to ride the circuits. I believe there is great use in sending young men to travel; it tends to enlarge their views and give them more liberal ideas than they might otherwise possess. Nay, if they reside long enough in foreign countries they may become acquainted with the manners of the people and acquire some knowledge of their civil institutions. But I am not quite convinced that riding rapidly from one end of this country to the other is the best way to study law. I am inclined to believe that knowledge may be more conveniently acquired in the closet than in the high road. It is moreover to be presumed that the first Magistrate would, in selecting persons to fill these offices, take the best characters from the different parts of the country, who already possess the needful acquirements. But admitting that the President should not duly exercise, in this respect, his discretionary powers, and admitting that the ideas of the gentleman are correct, how wretched must be our condition! These, our judges, when called on to exercise their functions, would but begin to learn their trade, and that too at a period of life when the intellectual powers with no great facility can acquire new ideas. We must, therefore, have a double set of judges. One set of apprentice-judges to ride circuits and learn; the other set of master-judges, to hold courts and decide controversies.

We are told, sir, that the repeal asked for is important, in that it may establish a precedent, for that it is not merely a question on the propriety of disbanding a corps of sixteen rank and file; but that provision may hereafter be made, not for sixteen but for sixteen hundred or sixteen thousand judges, and that it may become necessary to turn them to the right about. Mr. President, I will not, I cannot presume, that any such provision will ever be made, and therefore I cannot conceive any such necessity; I will not suppose, for I cannot suppose, that any party or faction will ever do any thing so wild, so extravagant. But I will ask, how does this strange supposition consist with the doctrine of gentlemen, that public opinion is a sufficient check on the Legislature, and a sufficient safeguard to the people? Put the case to its consequences, and what becomes of the check? Will gentlemen say it is to be found in the force of this wise precedent? Is this to control succeeding rulers in their wild, their mad career? But how? Is the creation of judicial officers the only thing committed to their discretion? Have they not, according to the doctrine contended for, our all at their disposition, with no other check than public opinion, which, according to the supposition, will not prevent them from committing the greatest follies and absurdities? Take then all the gentleman's ideas, and compare them together, it will result that here is an inestimable treasure put into the hands of drunkards, madmen, and fools.

But away with all these derogatory suppositions. The Legislature may be trusted. Our Government is a system of salutary checks: one Legislative branch is a check on the other. And should the violence of party spirit bear both of them away, the President, an officer high in honor, high in the public confidence, charged with weighty concerns, responsible to his own reputation and to the world, stands ready to arrest their too impetuous course. This is our system. It makes no mad appeal to every mob in the country. It appeals to the sober sense of men selected from their fellow-citizens for their talents, for their virtue; of men advanced in life, and of mature judgment. It appeals to their understanding, to their integrity, to their honor, to their love of fame, to their sense of shame. If all these checks should prove insufficient, and alas! such is the condition of human nature, that I fear they will not always be sufficient, the constitution has given us one more: it has given us an independent judiciary. We have been told that the Executive authority carries your laws into execution. But let us not be the dupes of sound. The Executive Magistrate commands indeed your fleets and armies; and duties, imposts, excises, and other taxes are collected, and all expenditures are made by officers whom he has appointed. So far indeed he executes your laws. But these, his acts, apply not often to individual concerns. In those cases so important to the peace and happiness of society, the execution of your laws is confided to your judges; and therefore are they rendered independent. Before then that you violate that independence, pause. There are State sovereignties, as well as the sovereignty of the General Government. There are cases, too many cases, in which the interest of one is not considered as the interest of the other. Should these conflict, if the Judiciary be gone, the question is no longer of law, but of force. This is a state of things which no honest and wise man can view without horror.

Suppose, in the omnipotence of your Legislative authority, you trench upon the rights of your fellow-citizens, by passing an unconstitutional law. If the Judiciary Department preserve its vigor, it will stop you short. Instead of a resort to arms, there will be a happier appeal to argument. Suppose a case still more impressive. The President is at the head of your armies. Let one of his generals, flushed with victory and proud in command, presume to trample on the rights of your most insignificant citizen: indignant of the wrong, he will demand the protection of your tribunals, and, safe in the shadow of their wings, will laugh his oppressor to scorn.

This, sir, leads me to the second object I had proposed. I shall therefore pray your indulgence, while I consider how far this measure is *constitutional*. I have not been able to discover the expediency, but will now, for argument's sake, admit it; and here, I cannot but express my deep regret for the situation of an honorable member from North Carolina. Tied fast, as he is, by his instructions, arguments, however forcible, can never be effectual. I ought, therefore, to wish, for his sake, that his mind may not be convinced by any thing I shall say; for hard indeed would be his condition, to be bound by the contrariant obligations of an order and an oath. I cannot, however, but express my profound respect for the talents of those who gave him his instructions, and who, sitting at a distance, without hearing the arguments, could better understand the subject than their Senator on this floor, after full discussion.

The honorable member from Virginia has repeated the distinction before taken between the supreme and the inferior tribunals; he has insisted on the distinction between the words *shall* and *may*; has inferred from that distinction, that the judges of the inferior courts are subjects of Legislative discretion; and has contended that the word *may* includes all power respecting the subject to which it is applied, consequently to raise up and to pull down, to create and to destroy. I must entreat your patience, sir, while I go more into this subject than ever I supposed would be necessary. By the articles so often quoted, it is declared, "that the judicial power of the United States *shall* be vested in one Supreme Court, and in such inferior courts as the Congress *may* from time to time establish." I beg leave to call your attention to what I have already said of these inferior courts. That the original jurisdiction of various subjects being given exclusively to them, it became the bounden duty of Congress to establish such courts. I will not repeat the argument already used on that subject. But I will ask those who urged the distinction between the Supreme Court and the inferior tribunals, whether a law was not previously necessary before the Supreme Court could be organized. They reply, that the constitution says, there *shall* be a Supreme Court, and therefore the Congress are commanded to organize it, while the rest is left to their discretion. This, sir, is not the fact. The constitution says, the judicial power shall be vested in one Supreme Court, and in inferior courts. The Legislature can therefore only organize one Supreme Court, but they may establish as many inferior courts as they shall think proper. The designation made of them by the constitution is, such inferior courts as the Congress may from time to time ordain and establish. But why, say gentlemen, fix precisely one Supreme Court, and leave the rest to Legislative discretion? The answer is simple: it results from the nature of things from the existent and probable state of our country. There was no difficulty in deciding that one and only one Supreme Court would be proper or necessary, to which should lie appeals from inferior tribunals. Not so as to these. The United States were advancing in rapid progression. Their population of three millions was soon to become five, then ten, afterwards twenty millions. This was well known, as far as the future can become an object of human comprehension. In this increase of numbers, with a still greater increase of wealth, with the extension of our commerce and the progress of the arts, it was evident that although a great many tribunals would become necessary, it was impossible to determine either on the precise number or the most convenient form. The convention did not pretend to this prescience; but had they possessed it, would it have been proper to have established, then, all the tribunals necessary for all future times? Would it have been wise to have planted courts among the Chickasaws, the Choctaws, the Cherokees, the Tuscaroras, and God knows how many more, because at some future day the regions over which they roam might be cultivated by polished men! Was it not proper, wise and necessary, to leave

in the discretion of Congress the number and the kind of courts which they might find it proper to establish for the purpose designated by the constitution? This simple statement of facts—facts of public notoriety—is alone a sufficient comment on, and explanation of, the word on which gentlemen have so much relied. The convention in framing, the people in adopting, this compact say the judicial power shall extend to many cases, the original cognizance whereof shall be by the inferior courts; but it is neither necessary, nor even possible now to determine their number or their form; that essential power, therefore, shall vest in such inferior courts as the Congress may from time to time, in the progression of time, and according to the indication of circumstances, establish; not provide, or determine, but establish. Not a mere temporary provision, but an establishment. If, after this, it had said in general terms, that judges should hold their offices during good behavior, could a doubt have existed on the interpretation of this act, under all its attending circumstances, that the judges of the inferior courts were intended as well as those of the Supreme Court? But did the framers of the constitution stop here? Is there then nothing more? Did they risk on these grammatical niceties the fate of America? Did they rest here the most important branch of our Government? Little important, indeed, as to foreign danger; but infinitely valuable to our domestic peace, and to personal protection against the oppression of our rulers. No; lest a doubt should be raised, they have carefully connected the judges of both courts in the same sentence; they have said, "the judges both of the supreme and inferior courts," thus coupling them inseparably together. You may cut the bands, but you can never untie them. With salutary caution they devised this clause to arrest the over-bearing temper which they knew belonged to Legislative bodies. They do not say the judges, simply, but the judges of the supreme and inferior courts shall hold their offices during good behavior. They say, therefore, to the Legislature, you may judge of the propriety, the utility, the necessity, of organizing these courts; but when established, you have done your duty. Anticipating the course of passion in future times, they say to the Legislature, you shall not disgrace yourselves by exhibiting the indecent spectacle of judges established by one Legislature removed by another. We will save you also from yourselves. We say these judges shall hold their offices; and surely, sir, to pretend that they can hold their office after the office is destroyed, is contemptible.

The framers of this constitution had seen much, read much, and deeply reflected. They knew by experience the violence of popular bodies, and let it be remembered, that since that day many of the States, taught by experience, have found it necessary to change their forms of government to avoid the effects of that violence. The convention contemplated the very act you now attempt. They knew also the jealousy and the power of the States; and they established for your and for their protection this most important department. I beg gentlemen to hear and remember what I say: it is this department alone, and it is the independence of this department, which can save you from civil war. Yes, sir, adopt the language of gentlemen, say with them, by the act to which you are urged, "if we cannot remove the judges we can destroy them." Establish thus the dependence of the Judiciary Department, who will resort to them for protection against you? Who will confide in, who will be bound by their decrees? Are we then to resort to the ultimate reason of kings? Are our arguments to fly from the mouths of our cannon?

Is there a member of this House, who can lay his hand on his heart, and say that, consistently with the plain words of our constitution, we have a right to repeal this law? I believe not. And if we undertake to construe this constitution to our purposes, and say that public opinion is to be our judge, there is an end to all constitutions. To what will not this dangerous doctrine lead? Should it to-day be the popular wish to destroy the First Magistrate, you can destroy him; and should he to-morrow be able to conciliate to him the popular will, and lead them to wish for your destruction, it is easily effected. Adopt this principle and the whim of the moment will not only be the law, but the constitution of our country.

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The gentleman from Virginia has mentioned a great nation brought to the feet of one of her servants. But why is she in that situation? Is it not because popular opinion was called on to decide every thing, until those who wore bayonets decided for all the rest? Our situation is peculiar. At present our national compact can prevent a State from acting hostilely towards the general interest. But let this compact be destroyed, and each State becomes instantaneously vested with absolute sovereignty. Is there no instance of a similar situation to be found in history? Look at the States of Greece. They were once in a condition not unlike to that in which we should then stand. They treated the recommendations of their Amphictyonic Council (which was more a meeting of Ambassadors than a Legislative assembly) as we did the resolutions of the old Congress. Are we wise? So they were. Are we valiant? They also were brave. Have we one common language, and are we united under one head? In this, also, there was a strong resemblance. But, by their divisions, they became at first victims to the ambition of Philip, and were at length swallowed up in the Roman empire. Are we to form an exception to the general principles of nature, and to all the examples of history? And are the maxims of experience to become false, when applied to our fate?

Some, indeed, flatter themselves that our destiny will be like that of Rome. Such, indeed, it might be, if we had the same wise but vile aristocracy, under whose guidance they became the masters of the world. But we have not that strong aristocratic arm, which can seize a wretched citizen, scourged almost to death by a remorseless creditor, turn him into the ranks, and bid him, as a soldier bear our eagle in triumph round the globe! I hope to God we shall never have such an abominable institution. But what, I ask, will be the situation of these States (organized as they now are) if, by the dissolution of our national compact, they be left to themselves? What is the probable result? We shall either be the victims of foreign intrigue, and split into factions, fall under the domination of a foreign power, or else, after the misery and torment of civil war, become the subjects of a usurping military despot. What but this compact—what but this specific

part of it, can save us from ruin? The judicial power, that fortress of the constitution, is now to be overturned. Yes, with honest Ajax, I would not only throw a shield before it, I would build around it a wall of brass. But I am too weak to defend the rampart against the host of assailants. I must call to my assistance their good sense, their patriotism and their virtue. Do not, gentlemen, suffer the rage of passion to drive reason from her seat. If this law be indeed bad, let us join to remedy the defects. Has it been passed in a manner which wounded your pride, or aroused your resentment? Have, I conjure you, the magnanimity to pardon that offence. I entreat, I implore you to sacrifice those angry passions to the interests of our country. Pour out this pride of opinion on the altar of patriotism. Let it be an expiatory libation for the weal of America. Do not, for God's sake, do not suffer that pride to plunge us all into the abyss of ruin. Indeed, indeed, it will be but of little, very little avail, whether one opinion or the other be right or wrong; it will heal no wounds, it will pay no debts, it will rebuild no ravaged towns. Do not rely on that popular will, which has brought us frail beings into political existence. That opinion is but a changeable thing. It will soon change. This very measure will change it. You will be deceived. Do not, I beseech you, in reliance on a foundation so frail, commit the dignity, the harmony, the existence of our nation to the wild wind. Trust not your treasure to the waves. Throw not your compass and your charts into the ocean. Do not believe that its billows will waft you into port. Indeed, indeed, you will be deceived. Cast not away this only anchor of our safety. I have seen its progress. I know the difficulties through which it was obtained. I stand in the presence of Almighty God, and of the world: and I declare to you, that if you lose this charter, never, no, never will you get another! We are now, perhaps, arrived at the parting point. Here, even here, we stand on the brink of fate. Pause—pause! For Heaven's sake, pause!

### WEDNESDAY, February 3.

The question was then taken on the final passage of the bill and determined in the affirmative—yeas 16, nays 15, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Brown, Cocke, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, and Wright.

NAYS.—Messrs. Chipman, Colhoun, Dayton, D. Foster, Hillhouse, Howard, J. Mason, Morris, Ogden, Olcott, Ross, Sheafe, Tracy, Wells, and White.<sup>[65]</sup>

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to repeal certain acts respecting the organization of the courts of the United States, and for other purposes."

### SATURDAY, April 17.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, [Pg 566] as the constitution so provides; and the honorable ABRAHAM BALDWIN was chosen.

*Ordered*, That the Secretary notify the House of Representatives of this election.

On motion, it was

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that the Senate have, in the absence of the VICE PRESIDENT, elected the honorable ABRAHAM BALDWIN their President *pro tempore*.

### MONDAY, April 26.

#### ***Relief to Widows and Orphans of Naval and Marine Officers.***

The Senate resumed the third reading of the bill, entitled "An act for the relief of the widows and orphans of certain persons who have died, or may hereafter die, in the naval service of the United States."

On motion to strike out the second section of the bill, to wit:

"SEC. 2. *And be it further enacted*, That if any commissioned or warrant officer of the Navy, or commissioned officer of Marines, have died, or shall hereafter die, by reason of wounds received while in the actual service of the United States, or have been lost at sea, or drowned, or shall hereafter be lost at sea, or drowned, while in the service as aforesaid, and in the actual line of his duty, and shall leave a widow, or if not, leave a child or children, under age, such widow, or such child, or children, as the case may be, shall be entitled to, and receive, the half of the monthly pay to which the deceased was entitled at the time of his death, and for and during the term of five years. And in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the residue of the term shall go to the child or children of such deceased officer under the age of sixteen years; and, in like manner, the allowance to the child or children of such deceased, in case there be no widow, shall be paid no longer than during the time there is a child or children under the age of sixteen years."

It passed in the affirmative—yeas 16, nays 8, as follows:



YEAS.—Messrs. Anderson, Baldwin, Bradley, Brown, Clinton, Cocke, Dayton, T. Foster, Franklin, Jackson, S. T. Mason, Ogden, Olcott, Stone, Sumter, and Wright.

NAYS.—Messrs. Ellery, Dwight Foster, Howard, J. Mason, Morris, Nicholas, Wells, and White.

### ***Georgia Limits.***

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and of the House of Representatives:*

In pursuance of the act, entitled "An act supplemental to the act, entitled 'An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory,'" James Madison, Secretary of State, Albert Gallatin, Secretary of the Treasury, and Levi Lincoln, Attorney General of the United States, were appointed Commissioners, to settle by compromise, with the Commissioners appointed by the State of Georgia, the claims and cession to which the said act has relation.

Articles of agreement and cession have accordingly been entered into and signed by the said Commissioners of the United States and of Georgia, which, as they leave a right to Congress to act upon them legislatively, at any time within six months after their date, I have thought it my duty immediately to communicate to the Legislature.

TH. JEFFERSON.

APRIL 26, 1802.

The Message and documents therein referred to were read, and ordered to be printed for the use of the Senate.

**TUESDAY, April 27.**

### ***State Government for Ohio.***

The Senate resumed the second reading of the bill to enable the people of the Eastern division of the territory north-west of the river Ohio to form a constitution and State government.

On motion, section sixth, to strike out the following words, reported by the committee to be struck out, and which report was amended, as follows:

"*Provided*, That the convention of the said State shall, on its part, assent that each and every tract of land sold by Congress, from and after the 30th day of June next, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale:"

It passed in the negative—yeas 12, nays 14, as follows:

YEAS.—Messrs. Bradley, Brown, Dayton, Dwight, Foster, Howard, J. Mason, Morris, Ogden, Olcott, Tracy, Wells, and White.

NAYS.—Messrs. Anderson, Baldwin, Breckenridge, Clinton, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, and Wright.

On motion to strike out the words reported by the committee to be struck out of section sixth, and amended as follows:

"*Third*. That one-twentieth part of the net proceeds of the lands lying within the said State, sold by Congress, from and after the thirtieth day of June next, after deducting all expenses incident to the same, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic to the Ohio, or to the navigable waters thereof, and continued through the said State: such roads to be laid out under the authority of Congress with the consent of the several States through which the road shall pass:"

It passed in the negative—yeas 12, nays 14, as follows:

YEAS.—Messrs. Bradley, Brown, Dayton, Dwight, Foster, Howard, J. Mason, Morris, Ogden, Olcott, Tracy, Wells, and White.

NAYS.—Messrs. Anderson, Baldwin, Breckenridge, Clinton, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, and Wright.

On motion to strike out these words, reported by the committee to be struck out of the sixth section:

"*Second*. That the six miles reservation, including the salt springs, commonly called the Scioto Salt Springs, the salt springs near the Muskingum River, and in the military tract, with the sections of land which include the same, shall be granted to the said State, for the use of the people thereof, the same to be used under such terms, and conditions, and regulations, as the Legislature of the said State shall direct, provided the said Legislature shall never sell nor lease the same

for a longer period than ten years:"

It passed in the negative—yeas 8, nays 18, as follows:

YEAS.—Messrs. Brown, Dwight Foster, Howard, J. Mason, Morris, Ogden, Olcott, and Tracy.

NAYS.—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Clinton, Dayton, Ellery, T. Foster, Franklin, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, Wells, White, and Wright.

And the bill being further amended, it was ordered to the third reading as amended.

### **THURSDAY, April 29.**

Mr. S. T. MASON presented the petition of David Brown, of Massachusetts, praying compensation for his sufferings while imprisoned under sentence of the judicial court, for seditious practices; and the petition was read, and ordered to lie on the table.

### **FRIDAY, April 30.**

Mr. TRACY, from the committee to whom was referred, on the 29th instant, the bill to carry into effect a resolution of Congress for erecting a monument to the memory of the late General David Wooster, reported amendments; which were read, and ordered to lie for consideration.

#### ***Case of John Cleves Symmes and his land purchase in Ohio.***

The Senate resumed the consideration of the report of the committee on the petition of John Cleves Symmes, which was adopted, as follows:

1. That, in the year 1788, the petitioner entered into a contract with the United States, upon a fair consideration, for the purchase of one million of acres of land in the North-western Territory.
2. That, in consequence of such contract, the petitioner made a settlement upon the tract, and sold many parcels thereof to adventurers, who went together with him into that new country, and located themselves there.
3. That, in the year 1794, the petitioner obtained a patent, under the authority of a law which enabled the President of the United States to make the same, for such proportion of the one million of acres, which had at that time been paid for, pursuant to the said contract, amounting to 311,682 acres of the said million of acres of land.
4. That the petitioner, after the said in part fulfilment of the contract on the side of both the parties to the same, proceeded to make sales (as he before had done in respect to the lands for which he had lately received the patent, as above mentioned) in the residue of the one million of acres, expecting to make the title when he should receive his patent thereof, agreeably to his contract, as he had before practised.
5. That no authority has been given by law, or otherwise, that can be found by your committee, whereby the said contract can be carried into execution on behalf of the United States, upon the payment of the sums further stipulated to be paid by the petitioner, agreeably to his contract, whereby he is entitled to a patent, upon payment of such stipulated sums; which payments the petitioner avers he always has been, and still is, ready to pay and perform, as thereunto required by his contract.
6. That your committee, from the papers and documents laid before them by the petitioner, or from the statement which he has made, do not perceive that the petitioner has done any one act, or omitted to do any act whereby he has forfeited any right to the full benefit of his contract before stated.
7. That no authority exists, by law, enabling any person to carry into execution the said contract on behalf of the United States; but, on the contrary, that two laws have been passed predicated upon the idea that the obligations of the United States, under the said contract, have ceased and determined; under the operation of which laws the said petitioner states, and your committee believe, that the said petitioner is suffering very great hardships, tending to the utter destruction and total waste of his whole property.
8. Your committee, the premises considered, beg leave to recommend the adoption of the resolution accompanying this report:

*Resolved*, That the President of the United States be requested to direct the Attorney General to examine into the contract entered into between the United States and John Cleves Symmes, Esq., and others, bearing date on the 15th of October, 1788, and all the contracts and laws relative thereto; and all the transactions which may legally or equitably affect the same, as far as they may come to his knowledge; and to make a report of the same to the Senate at their

next session, together with his opinion whether the said John Cleves Symmes has any claims, and what, upon the United States, in virtue of the said contract, or any other contract, or law predicated upon the same: and that the further consideration of the petition of said John Cleves Symmes, Esq., of and concerning the premises, be postponed to the first day of the next session of Congress.

And the report was adopted.

*Ordered*, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

The resolution of the House of Representatives, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on Saturday the first day of May, was read.

The bill, entitled "An act making appropriations for the Military Establishment of the United States in the year one thousand eight hundred and two," was read the third time and passed.

The bill, entitled "An act making appropriations for the support of Government for the year one thousand eight hundred and two," was read the third time.

*Resolved*, That this bill do pass as amended.

The bill making an appropriation for the support of the Navy of the United States, for the year one thousand eight hundred and two, was read the third time as amended.

On motion to strike out the third section, agreed to yesterday, it passed in the affirmative—yeas 12, nays 11, as follows: [Pg 568]

YEAS.—Messrs. Bradley, Brown, Dwight Foster, Howard, Morris, Nicholas, Ogden, Olcott, Tracy, Wells, White, and Wright.

NAYS.—Messrs. Anderson, Baldwin, Breckenridge, Clinton, Cocke, Ellery, Franklin, Logan, S. T. Mason, Stone, and Sumter.

*Resolved*, That this bill do pass with the amendments.

The bill, entitled "An act to provide for the establishment of certain districts, and therein to amend an act, entitled 'An act to regulate the collection of duties on imports and tonnage, and for other purposes,'" was read the third time, and passed with an amendment.

Mr. BRADLEY, from the committee to whom was referred, on the 6th and 7th instant, the petition of Elijah Brainard, also the petition of Jonathan Snowden, reported that the consideration of said petitions be severally postponed to the next session of Congress, and that the committee to whom the same were referred be discharged, and the report was adopted.

Mr. S. T. MASON, from the committee to whom was referred, on the 29th instant, the bill to incorporate the inhabitants of the City of Washington in the District of Columbia, reported amendments; which were read, and ordered to lie for consideration.

On motion, it was

*Ordered*, That the bill for the better security of public money and property in the hands of public officers and agents, as amended by the House of Representatives, be postponed to the next session of Congress.

Mr. S. T. MASON, from the committee to whom was referred, on the 29th instant, the bill additional to, and amendatory of, an act, entitled "An act concerning the District of Columbia;" reported amendments which were read, and ordered to lie for consideration.

### **MONDAY EVENING, 7-1/2 o'clock, May 3.**

#### ***Adjournment.***

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, with such as the Senate may appoint, to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he hath any further communications to make to the two Houses of Congress, they are ready to adjourn, and they desire the appointment of a committee on the part of the Senate.

The Senate took into consideration the resolution of the House of Representatives appointing a committee, jointly, with such as the Senate may appoint, to wait on the PRESIDENT OF THE UNITED STATES and notify him of the proposed adjournment of the two Houses of Congress; and

*Resolved*, That they do concur therein, and that Messrs. ELLERY and CLINTON be the committee on the part of the Senate.

Mr. ELLERY, from the joint committee, reported that they had waited on the PRESIDENT OF THE UNITED STATES, agreeably to the vote of the two Houses, and that he informed them he had no further business to communicate.

*Ordered*, That the Secretary notify to the House of Representatives that the Senate, having completed the business of the session, are ready to adjourn.

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.

Whereupon, the Senate adjourned to the first Monday in December next.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 7, 1801.

This being the day appointed by the constitution for the annual meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats in the House, to wit:

*From New Hampshire.*—Abiel Foster, George P. Upham, and Samuel Tenney.

*From Massachusetts.*—William Eustis, John Bacon, Phanael Bishop, Joseph B. Varnum, Richard Cutts, Lemuel Williams, William Shepard, Ebenezer Mattoon, Nathan Read, Josiah Smith, and Manasseh Cutler.

*From Rhode Island.*—Thomas Tillinghast, and Joseph Stanton, jr.

*From Connecticut.*—Roger Griswold, Samuel W. Dana, John Davenport, Calvin Goddard, Benjamin Tallmadge, Elias Perkins, and John C. Smith.

*From Vermont.*—Israel Smith.

*From New York.*—Samuel L. Mitchill, Philip Van Cortlandt, Theodorus Bailey, John Smith, Benjamin Walker, Thomas Morris, Killian K. Van Rensselaer, Lucas Elmendorph, David Thomas, and John P. Van Ness.

*From New Jersey.*—John Condit, James Mott, William Helms, Henry Southard, and Ebenezer Elmer.

*From Pennsylvania.*—William Jones, Michael Leib, John Smilie, William Hoge, Isaac Vanhorne, Joseph Heister, Robert Brown, Henry Woods, John A. Hanna, John Stewart, Thomas Boude, and Joseph Hemphill.

*From Delaware.*—James A. Bayard.

*From Maryland.*—John Archer, Joseph H. Nicholson, Samuel Smith, Richard Sprigg, John Dennis, and Thomas Plater.

*From Virginia.*—Thomas Newton, jr., John Randolph, jr., George Jackson, Philip R. Thompson, John Taliaferro, John Stratton, William B. Giles, Abram Trigg, John Trigg, Anthony New, John Smith, David Holmes, Richard Brent, Edwin Gray, and Matthew Clay.

*From Kentucky.*—Thomas T. Davis, and John Fowler.

*From North Carolina.*—Nathaniel Macon, Willis Alston, Richard Stanford, Charles Johnson, Archibald Henderson, and John Stanley.

*From Tennessee.*—William Dickson.

*From South Carolina.*—Thomas Sumter, Thomas Moore, and Thomas Lowndes.

*From Georgia.*—John Milledge.

*From the North-west Territory.*—Paul Fearing.

*From Mississippi Territory.*—Narsworthy Hunter.

A quorum, consisting of a majority, 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 NATHANIEL MACON, one of the Representatives for the State of North Carolina: Whereupon, Mr. MACON was conducted to the chair, and he made his acknowledgments to the House as follows:

"GENTLEMEN: Accept my sincere thanks for the honor you have conferred on me, in the choice just made. The duties of the chair will be undertaken with great diffidence indeed; but it shall be my constant endeavor to discharge them with fidelity and impartiality."

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by law, was then administered by Mr. GRISWOLD, one of the Representatives for the State of Connecticut, to the SPEAKER; and then the same oath, or affirmation, was administered, by Mr. SPEAKER, to each of the members present.

A message from the Senate informed the House 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

the honorable ABRAHAM BALDWIN, President of the Senate, *pro tempore*.

*Ordered*, That a message be sent to the Senate to inform them that a quorum of this House is assembled, and have elected NATHANIEL MACON, one of the Representatives of the State of North Carolina, their Speaker, and are ready to proceed to business; and that the Clerk of this House do go with the said message.

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, and, also, a unanimous vote in favor of THOMAS CLAXTON, and THOMAS DUNN, severally, the former as Doorkeeper, and the latter as Assistant Doorkeeper.

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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 a quorum of the two Houses is assembled, and ready to receive any communications he may think proper to make to them.

Mr. SAMUEL SMITH, 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 performed that service, and that the PRESIDENT signified to them that he would make a communication to this House, to-morrow, by message.

## **TUESDAY, December 8.**

Several other members, to wit: from Pennsylvania, ANDREW GREGG; from Virginia, SAMUEL J. CABELL; from North Carolina, JAMES HOLLAND; and from South Carolina, WILLIAM BUTLER; 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.

A petition of John McDonald, late of the city of Philadelphia, was presented to the House and read, praying that he may be employed to superintend the arrangement and safe-keeping of the books intended for the library of the two Houses of Congress; and that he may receive such compensation for his services, in that capacity, as to the wisdom of Congress shall seem meet.

*Ordered*, That the said petition be referred to the committee appointed yesterday, on the part of this House, jointly with the committee appointed by the Senate, to take into consideration a statement made by the Secretary of the Senate, respecting books and maps purchased pursuant to a late act of Congress, and to make report respecting the future arrangement of the same.

The following committees were appointed pursuant to the standing rules and orders of the House, viz:

*Committee of Elections*.—Mr. MILLEDGE, Mr. TENNEY, Mr. CONDIT, Mr. DENNIS, Mr. HANNA, Mr. STANLEY, and Mr. JOHN TALIAFERRO.

*Committee of Revised and Unfinished Business*.—Mr. DAVENPORT, Mr. CLAY, and Mr. ALSTON.

*Committee of Claims*.—JOHN COTTON SMITH, Mr. GREGG, Mr. HOLMES, Mr. MATTOON, Mr. JOHN SMITH, of New York, Mr. PLATER, and Mr. MOORE.

*Committee of Commerce and Manufactures*.—Mr. SAMUEL SMITH, Mr. EUSTIS, Mr. DANA, Mr. MITCHILL, Mr. JONES, Mr. NEWTON, and Mr. LOWNDES.

*Resolved*, That a standing Committee of Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions, relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures; and to report, from time to time, their opinion thereon.

*Ordered*, That Mr. RANDOLPH, Mr. GRISWOLD, Mr. ISRAEL SMITH, Mr. BAYARD, Mr. SMILIE, Mr. READ, Mr. NICHOLSON, Mr. VAN RENSSELAER, and Mr. DICKSON, be appointed a committee, pursuant to the said resolution.

## **WEDNESDAY, December 9.**

Another member, to wit, JOHN CAMPBELL, from Maryland, appeared, produced his credentials, was qualified, and took his seat in the House.

## **THURSDAY, December 10.**

Mr. ELMENDORPH, from the committee to whom was referred, on the eighth instant, a letter from THOMAS CLAXTON, the Doorkeeper of this House, relative to certain expenditures, and further assistance necessary to be allowed for enabling him to execute the duties of his station, made a report; which was read and considered: Whereupon,

*Resolved*, That THOMAS CLAXTON be, and is hereby, authorized to employ, under his immediate direction, one additional assistant, two servants, and two horses, for the purpose of performing such services and duties as are usually required by the House of Representatives, during the present session, and for four days thereafter; and the sum of five dollars and seventy-five cents per day be allowed to him for that purpose; and that he be paid therefor out of the fund

appropriated for the contingent expenses of the House.

A message from the Senate informed the House that the Senate have proceeded to the appointment of a Chaplain to Congress, on their part, and the Rev. Mr. GANTT has been duly elected.

### **FRIDAY, December 11.**

Several other members, to wit: from New Hampshire, JOSEPH PEIRCE; from Massachusetts, PELEG WADSWORTH; from Virginia, THOMAS CLAIBORNE and JOHN CLOPTON; and, from North Carolina, WILLIAM H. HILL, appeared, produced their credentials, were qualified, and took their seats in the House.

### **MONDAY, December 14.**

Another member, to wit, LEWIS R. MORRIS, from the State of Vermont, appeared, produced his credentials, was qualified, and took his seat in the House. [Pg 571]

### **TUESDAY, December 15.**

#### ***Barbary Powers.***

The House resolved itself into a Committee of the Whole on the State of the Union, the following resolution being under consideration:

"*Resolved*, That it is expedient that the President be authorized by law, further and more effectually to protect the commerce of the United States against the Barbary Powers."

Mr. NICHOLSON said, that when this resolution was yesterday laid on the table, he had moved, for reasons that he had assigned, to strike out the words "further and more." He was, on reflection, more and more persuaded of the accuracy of his objections to the unqualified terms of the original motion. If we adopt it, we pledge ourselves to increase the naval force at present at the disposition of the President. But if his modification were agreed to, every gentleman would remain at liberty to put his own construction on the words "effectual force." Uninformed as we were as to the necessity of increasing the force, it would be highly improper to commit ourselves by any precipitate decision. He, therefore, moved to strike out the words "further and more."

Mr. GILES opposed the striking out the words, which, in his opinion, did not relate to the quantum of force placed under Executive disposition, but to the measures proposed to be taken by the Executive. He should vote for the motion unamended, though he had been, and still was, as averse as any gentleman in that House to an improper augmentation of the Army or Navy. With respect to the Navy, he was friendly to it as it now stood, or to an augmentation of it to meet any particular emergency.

Mr. S. SMITH said that as he understood the resolution, it went not to pledge any man to augment the Navy, but to authorize the President, with the present force, to take measures for the defence of our trade. We were at war with Tripoli. Against that power, therefore, the President felt himself at liberty to act efficiently. But gentlemen should advert to our situation with regard to Algiers and Tunis. Those powers may become hostile. They may become so in the recess of Congress. It may be necessary without delay to protect our trade against them. Will you then confine the President, in relation to these powers, to a Peace Establishment? Certainly, when these circumstances were duly weighed, no gentleman will refuse the power which this resolution is intended to confer.

Mr. SMILIE was in favor of the amendment for one reason. He was ready at all times to grant commerce every necessary protection. But by adopting this resolution, we pledge ourselves, without inquiring into the necessity, to extend further protection. No doubt further protection will be required. But he thought it premature to make any pledge until all the documents connected with the subject were before the House.

Mr. MITCHILL suggested the propriety of amending the original resolution by inserting after the word "law," "if necessary." This would render the resolution conditional. To the resolution he was a friend. For when the aspect and extent of the United States were considered, it must be evident to every man that we were a commercial people. The bulk and extensiveness of our produce required vessels to carry it to foreign countries. The carriage required protection. The Government must of course give protection. With respect to the Mediterranean expedition, no plan under the Government had been better devised; and he had no hesitation to say, that if the Mediterranean trade required further protection, he would be for making further appropriations of the public moneys.

Mr. NICHOLSON said he could not agree to the suggestion of the gentleman from New York, as by adopting it we should do nothing. How does the matter now stand? Congress has put into the hands of the President six frigates, which he had used for the public service in the Mediterranean. This was not a fit time to express his opinion on the propriety of the measures of the Executive. But when a fit occasion did offer, he would have no hesitation to say the President had done right.

To return to the point—The President had now six frigates. If we agree to the resolution, do we not pledge ourselves to increase this force?

One squadron had been sent to the Mediterranean; another was in operation to go there, he understood. This was all right. But there followed no necessity from these circumstances to pledge ourselves to increase the force.

We were not even acquainted with the sentiments of the President on this point. His communications did not inform us that he desired a larger force. If he did desire it, he would say so. He had, on the contrary, recommended a reduction of the Army and Navy; and to desire an augmentation of the latter, would be, in the same breath, to say one thing and mean another.

Mr. EUSTIS.—The President, in his communications, has informed us that he has hitherto acted on the defensive. The simple question now is, whether he shall be empowered to take offensive steps. This has no relation, therefore, to an increase of the force; nor shall we, by adopting it, pledge ourselves to such effect.

Mr. GILES was happy that the discussion was one more of words than of principles. He perfectly coincided with the gentleman from Maryland, who had moved the amendment, in his general sentiments. It would be wrong in this House prematurely to pledge itself for an increase of naval force. But the words of the resolution do not relate to the quantum of force, but entirely to the measures to be taken with any force. When the President is authorized further and more effectually to protect our trade, it was not said that we will give him four or six additional frigates; but merely that he is to have means, more or less, which shall be adequate to make offensive operations against those who shall make offensive operations against us.

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It was well understood that he was for keeping the Navy within proper bounds; but if ever there was a case where it was required, this was the case, and he acknowledged that he was for empowering the President to authorize not merely a dismantlement of a vessel, but her capture.

The question was then taken on Mr. NICHOLSON'S amendment and lost.

When the original motion of Mr. SMITH was carried.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. EUSTIS, Mr. SAMUEL SMITH, Mr. DANA, Mr. MITCHILL, and Mr. JONES, do prepare and bring in the same.

### **WEDNESDAY, December 16.**

Another member, to wit, BENJAMIN HUGER, from South Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

#### ***Ratio of Representation.***

The House, according to the order of the day, proceeded to consider the first resolution reported yesterday from the Committee of the whole House on the state of the Union, in the words following, to wit:

*"Resolved*, That the apportionment of Representatives amongst the several States, according to the second enumeration of the people, ought to be in a ratio of one Representative for every thirty-three thousand persons in each State."

Mr. GRISWOLD remarked, that the effect of adopting this resolution would be an increase of members in that House; that the number would amount to nearly one hundred and fifty. He was of opinion that the present House was sufficiently numerous for every correct purpose, as well of legislation, as for obtaining all desirable information from the people. Should an augmentation be made, the consequences would be an increase of expense, and business would inevitably be protracted. He moved, therefore, to strike out the words "thirty-three," meaning, if they were stricken out, to propose the substitution of a larger number.

On this motion a desultory debate ensued, in which MESSRS. GRISWOLD, S. SMITH, NICHOLSON, GILES, BAYARD, ALSTON, ELMER, EUSTIS, SPRIGG, and other gentlemen, took part.

Mr. GRISWOLD stood alone in advocating an apportionment of one member to every 40,000 persons.

MESSRS. GILES and BAYARD were for one member for every 30,000.

MESSRS. S. SMITH, NICHOLSON, and EUSTIS, were for one member for 33,000.

Mr. ALSTON was in favor of one representative for every 31,000.

The preferences avowed by the several speakers, appeared to arise from the application of that divisor to the State from which each member came, which left the least fraction.

Some gentlemen, however, declared, and particularly Mr. GILES, that he had made no calculation, and that his preference of the smallest ratio proposed was the preference of principle.

Those in favor of a small ratio argued that, though the expense attending the compensation of the members might be somewhat increased, yet that it would be trifling compared with the great advantages that would result from a larger representation; that such a representation would be productive of true economy, as it would oppose all extravagant expenditure of money; that the weight of expense incurred by the Government, did not arise from the expense of the civil list, which formed but a speck in the mass of expenditure; that it was important to this Government to adopt those measures which would ensure the respect and the confidence of the people; that this end would be best attained by each Representative being familiarly acquainted with the interests of his constituents; and that this could only be the case when the number of his constituents were

limited within certain bounds. It was true that it had been said that a body of more than one hundred, even though it be composed of philosophers, was a mob; but it was replied that the long experience of this country had proved the reverse, for that many of the State Legislatures consisted of more members.

These ideas were but feebly opposed. The diversity of opinion expressed chiefly arose from a division of the House on the ratios of thirty thousand and thirty-three thousand. The former was advocated principally from a regard to Delaware and Rhode Island, which, by its adoption, would have each two Representatives instead of one, if a higher ratio were preferred.

During the discussion, it was moved to strike out the word "three;" leaving thirty thousand as the ratio. This motion was lost—yeas 43, nays 46.

Mr. BAYARD then moved to strike out "thirty-three," leaving the resolution blank, in order that it might be filled up with such number as should be agreeable to the House.

This motion was opposed chiefly by Mr. NICHOLSON and Mr. EUSTIS, who were of opinion that the progressive increase of the members would be sufficiently large on the ratio of thirty-three thousand persons to a member. They were also further in favor of this number as it left the fewest fractions. The only two States much injured by it would be Delaware and North Carolina; whereas, if the ratio was increased to thirty-five thousand, New Jersey would have a fraction of 31,000; Delaware of 26,000; Maryland of 30,000; Georgia of 23,000; and Kentucky of 29,000.

On the question being taken for striking out "thirty-three," there rose only thirty-one members. It was therefore declared to be lost.

The question was then taken on the original motion, and carried without a division, and a committee of three members appointed to bring in a bill conformably thereto. [Pg 573]

### **THURSDAY, December 17.**

Another member, to wit, DANIEL HEISTER, from Maryland, appeared, produced his credentials, was qualified, and took his seat.

### **FRIDAY, December 18.**

#### ***Public Printing.***

Mr. RANDOLPH, chairman of the committee appointed to see what alterations were necessary to expedite the printing business of the House, reported that the committee thought it expedient to request the Heads of the Departments to attend and inspect the printing of all such documents, reports, and statements, as are directed by law to be annually laid before the House; and that it was necessary that a printer to the House be appointed, who shall be responsible for the faithful and prompt execution of all business confided to him by order of the House.

Mr. GRISWOLD wished the report altered to a resolution; to the first part of it he should agree, but doubted whether the latter part would be concurred in. He did not think it sufficient or expedient to appoint but one; the business would require more, particularly at the close of the session. He could see no reason for altering the mode in which the printing business was now and had ever been done; it now lies with the Clerk, who is empowered to employ as many persons as he pleases or deems expedient. If such printer should be appointed, he will become an officer of the House; he will not be responsible to the Speaker. We have officers enough already; it is needless to multiply.

Mr. RANDOLPH said, the committee had considered these objections; but, he believed, sufficient reasons might be offered to convince the House of the expediency of this measure. If one be appointed, he will know his duty and be prepared; he will employ as many hands as he wishes. Had there been one appointed by the House last session, he would have been on the spot now, fully prepared promptly to execute the orders of the House; nor should we have such delay as that by which we are now unfortunately troubled.

Mr. NICHOLSON.—We have but few printers in this vicinity, nor is it probable their number will be soon increased. The printing for the House is said to be worth \$4,000 per annum; if one be appointed for that purpose, he will have every thing in readiness, and be responsible for his faithful duty.

Mr. S. SMITH thought a printer thus appointed might perform a considerable part of his duty previous to each session; to many documents he might attend. Mr. S. wished such printer appointed as a permanent officer.

Mr. LOWNDES.—If he thought such officer necessary he should not oppose the measure, but at present he did not think such appointment necessary. He conceived the Clerk to be responsible to the House; that it was his duty to attend to the printing; that he could employ whom and as many as he pleased. Whence, then, the necessity of such appointment? Besides, such printer will become an officer of this House, must have a salary, and will be called the printer of the House: and, if printer of a paper, whatever sentiments might be advanced in such paper would perhaps be considered as the sentiments of the House.

Mr. EUSTIS considered it altogether unnecessary, disadvantageous, and troublesome.

The first was carried: that relating to the appointment of a printer not carried; about twenty only



rising in favor of it.

### ***Apportionment Bill.***

The House resolved itself into a Committee of the Whole on the bill for the apportionment of Representatives among the several States, according to the second enumeration.

Mr. MACON (Speaker) moved to strike out "thirty-three," the ratio fixed by the bill, for the purpose of inserting "thirty."

Mr. M. observed that it did not appear, from the different ideas expressed by different gentlemen, that any material inconvenience would result from the increased number of members that would be created by the ratio of thirty thousand being adopted. Whereas on the ground of principle a great benefit would flow from it. In his opinion, to secure the confidence of the people in the Government, it was essential to lessen the districts as much as possible, that the elector might know the elected. At present, particularly in North Carolina, they were so large that a voter depended more upon the opinions of others than upon his own information. The ratio of thirty thousand would not introduce into the House more than one hundred and sixty members, which number did not equal that of the members in several of the State Legislatures, of which no complaints had been made, and from which no inconvenience had arisen. He felt particularly for Delaware, which would be severely affected by the ratio in the bill.

Mr. GILES hoped the motion would obtain. As far as respected the State of Virginia, he felt little or no anxiety. But he, on general principles, preferred the smallest ratio. It was an essential principle of a Republican Government that the people voting should know whom they vote for; that the elector should be well acquainted with the elected. To ensure this effect the districts should be small. He was aware of the impossibility of reaching this point precisely: but it was our duty to approach it as nearly as possible. Though, in relation to the situation of Delaware, he did not subscribe fully to the ideas of some gentlemen, as the case was an extreme one, and he knew the impropriety of relying upon such cases, as the reasoning from an extreme generally led to an extreme, yet he thought the relative circumstances of Delaware and Virginia, as stated, to be correct; for it was a fact that Virginia, entitled to twenty-two Representatives, was not so much affected by any given fraction, as Delaware, entitled to but one Representative.

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But the reply to the inequality of her representation here is, that she has two Representatives in the Senate; and it is inferred that she will hence derive a larger weight in the Union. Such was the theory of the thing. But what was the result of experience? Mr. G. said, he had once supposed that the small States would have an undue advantage over the large States. His opinion had since altered. All the small States were surrounded and compressed by large States, and derived their political sympathies from them. It was true, the small States had each two votes in the Senate. Yet, what superior advantage have they in the Government generally? He was, therefore, clearly of opinion that the claims of the small States to the largest representation that could be constitutionally given them, ought not to be affected by their representation in the Senate. The fact was that this House was the basis of confidence in the Government. We had heard much about an alarm, about disorganization, and the disposition of large States to swallow up the rights of all the other States. He would ask, whether the adoption of a large ratio would lessen this clamor, promote the general confidence, and increase the stability of the Government?

Mr. JONES hoped the amendment would prevail. There was not a doubt but that the small States would be materially affected by the ratio in the bill. It was true, that, according to the theory of our Government, the members of that House did not represent the States. But, what was the fact? In truth, our representation was that of absolute locality. Can I, said Mr. J., represent as effectually Massachusetts, or Vermont, as Pennsylvania?

Mr. VAN NESS declared himself to be uninfluenced by local considerations, or particular inconveniences. If we attempted to avoid them by the adoption of any ratio, we should be mistaken. The inequality of States could not be remedied. If a remedy was sought, it must be found in the Senate. The large States had not that exclusive weight which had been stated. If the number of the large States in this House should overbear the smaller States, they would find their protection in the Senate. The fractional loss, so much dwelt on, was not a loss to the State, it was only a loss to that part of the State which was unrepresented, and the loss would be the same to a larger State, if its unrepresented fraction was equally great.

Mr. V. N. said, it had always been his desire to consult the wishes of the people and to conform to them. He considered those wishes as solemnly expressed in the constitution, which had decided that the ratio should not be less than thirty thousand, and in the law passed immediately after the adoption of the constitution, fixing the ratio at thirty-three thousand.

As to the experience of the State, so often appealed to, he would state that of his own. The constitution of New York originally fixed the representation in one branch at three hundred, and in the other at one hundred and fifty. After suffering the inconveniences of so large a legislative body, a convention had been called, which reduced the one branch to one hundred and fifty, and the other to thirty-two members.

It was the opinion of some gentlemen that the essential principle of our Government was the equal representation of the States in the Senate. This was a mistaken opinion. The federalism of the Government might have been as well preserved by an unequal representation in the Senate. The feature was not the offspring of principle, but of concession. If we looked to antiquity, we would observe the smaller States of a Confederation always inferior to the larger; and he

recollected one case of a Confederation, in which one State was entitled to three, another to two, and the third to one representative.

Mr. SMILIE heartily concurred in opinion with the gentleman from New York, that we ought not to respect local feelings, but that we ought to go upon general grounds. Possessing these principles, we still know how difficult it is to do complete justice. For himself he would be satisfied with the ratio of thirty-three, if he could not obtain that of thirty thousand. He was in favor of a large representation, because he relied on that for safety and economy. For, when he considered the great powers of the other branches of the Government, (powers, in the opinion of some men, too great,) he thought it was their duty to impart to that House all the constitutional power that could be conferred. This would enable the House to resist all encroachments attempted to be made upon it.

Mr. BACON said that, for himself, he was satisfied with the present ratio, as it stood in the bill. This was the ratio which had been adopted when our numbers were much less than they now are; that it did not appear but that it had given general satisfaction; and that no other inconveniences had accrued than such as might be expected to follow from the adoption of any other ratio whatever. It would seem to be rather unnatural, and the reverse of what was contemplated by those who enacted the constitution, as our numbers increase, to lessen the ratio of representation. He was, therefore, against striking out the number thirty-three, with a view to insert a lower number.

A divisor of thirty-three thousand would now give a House consisting of at least one hundred and forty members, which, even on the present ratio, must soon become not only too expensive, but unwieldy. It had been repeatedly urged that the present ratio leaves a very large fraction to the State of Delaware. This, it was admitted, was matter of regret; but that, let what ratio might be adopted, such fractional parts must be expected to fall somewhere; that such fractions would be likely to vary, from time to time, and shift from State to State, as the population may increase and vary in the several States. And Mr. B. did not conceive that the particular case of Delaware, hard as it might seem, furnished a sufficient reason for altering an entire system.

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As to what had been urged of the disadvantage to which Electors were subjected in large districts, of not knowing the characters of their Representatives and candidates, Mr. B. observed that this was a disadvantage which was lessening with rapidity from year to year, and from one election to another; that to whatever inconvenience electors may heretofore have been subjected by the want of a knowledge of their candidate, from this inconvenience they are already in a great measure relieved; and it must, in a very short time, entirely cease to exist. If any inconvenience of this kind still remains, by an election or two more, it would be entirely removed. It had been urged that Delaware had but one Representative, and every State ought to have two. But, why two, Mr. B. queried, rather than three? It is true, that two are better than one; and three are better than either one or two; for, as we have long since been told, "a three-fold cord is not easily broken."

Mr. B. concluded by saying that, as thirty-three thousand was the ratio which had been adopted when our population was much less than it now is; and as it has been practised upon without any inconvenience or general dissatisfaction, he was unwilling to risk the uncertain consequences of an innovation at this particular time.

Mr. T. MORRIS was of opinion that the arguments drawn from the representation in the Senate had nothing to do with this question. The House had a constitutional duty to perform, that was highly interesting. The only question is, How it shall be performed? The people ought to be fully represented; that is, the number of their representatives should be increased until that number became inconvenient for the transaction of business. He had never been a friend to an enormous Legislature; such as that in France, a mob convention. He thought the idea incorrect that this House should acquire a weight that might cause it to bear down the other branch of the Legislature. He hoped, if any such attempt should be made, that body would have sufficient spirit to resist it; and he trusted there would always be firmness enough here to resist any encroachment attempted.

As to the present ratio guiding, he did not think that the House should be governed by any uniform rule. They ought, on the contrary, to be governed by the existing circumstances. Not believing that any inconvenience would arise from the augmented representation on the ratio of thirty thousand, he would be in favor of it from the reasons he had assigned.

Mr. DENNIS did not rise to say any thing new on the subject; but merely, as he had altered his mind since the business was before the House, to assign some of the reasons which had influenced him. He was now in favor of the ratio of thirty thousand. His first impressions were against it from an apprehension that the increased numbers of the House would increase expense, and produce disorder. But he acknowledged himself convinced by the arguments which had fallen from the gentleman from Virginia, which he thought counterbalanced his previous apprehension. Mr. D. thought it all-important to preserve an equilibrium between the different departments of the Government, and he was convinced that this would be best effected by making the representation in this House as large as the constitution permitted, and convenience justified. If we expected to retain the confidence of the people, it was necessary to increase the Representative branch; for it would be in vain to look for that confidence necessary to give it a proper portion of energy, unless there existed a sympathy between the elector and the elected.

Mr. RANDOLPH hoped the amendment would not obtain. The difference between the effects of the two ratios was not very important; but it was highly important that a doctrine so heretical and improper as that which had been avowed, should be exploded on its first annunciation. He meant that doctrine which considered this House as the Representatives of the people. When the

constitution was formed, two great difficulties presented themselves. The large States refused to confer on the Government greater powers than those it enjoyed, which deeply affected their wealth and their numbers, unless, according to the ratio of their numbers, they should participate in the administration of it; while the smaller States withheld their concurrence, unless their sovereignties were guaranteed and protected. These two difficulties were surmounted by the plan of the present constitution; according to which the members of this House were the Representatives, not of the people, but of the States in proportion to their numbers. This was the theory of the Government for which he must contend.

Mr. R. believed that the strongest objection urged against the adoption of the constitution, was, that it tended to a consolidation of the States. But when he looked into it with a Federal eye, (and with no other eye could he ever look at it,) he saw the State sovereignties in all its parts acknowledged and protected. Of this, the very bill was itself a proof. For the apportionment was not among the people, but among the States, according to the numbers of each. Believing that this House is the representative of States, it was his opinion that so long as the relative weight of States could be preserved, it was immaterial that each State should be represented by a large number of members.

It was with extreme regret, and some diffidence, Mr. R. said, that he differed from his colleague on this subject. His colleague wished to increase the House to such an extent as to make it the depository of the whole confidence of the people. Mr. R. wished it to possess that confidence so far as related to Federal objects, but no further. Increase it, according to the theory of gentlemen, make it in point of numbers, a British Parliament, or a French convention, and you will proportionably diminish the confidence of the people in the State governments. They will become feeble barriers against the powers of the General Government; and the people will inquire for what purpose they elect their State Legislatures. Mr. R. believed it to be of infinite importance that the poises of the Government should be preserved; that it should confine itself to Federal objects. His object, therefore, was to preserve on that floor the proportionate weight between the several States which the constitution had fixed.

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Had any objection been made to the old Congress under the Confederation, that was federally organized, for the want of talents or integrity? No. The only objection was, that they wanted power. Had the public affairs been conducted with less ability than they are at present? He had neither heard, nor did he believe that they had.

Mr. R. concluded, by making some remarks on the score of convenience, similar to those already stated.

Mr. MITCHILL, in a speech of some length, supported the ratio of thirty thousand.

Mr. S. SMITH felt indifferent whether the ratio of thirty-three, or that of thirty thousand, were adopted; but felt anxious that justice should be done to the State of Maryland. He understood that radical errors existed in the numbers given to that State; that in Harford County there were returned only three thousand slaves, whereas there ought to have been returned eighteen thousand; and that in Cecil there had been returned nine thousand, instead of fifteen thousand. He hoped, in order to have these errors corrected, the committee would rise, that the original returns in the office of State might be examined.

This motion gave rise to a conversation of some length, in which on one side the impropriety and injustice of making an apportionment under the existing errors, and without the return from Tennessee, were argued; and, on the other side, the great inconvenience of delay, and the inability of the House to obtain a correction of errors, which, if attempted in one instance, might be attempted in many.

Mr. VAN NESS informed the committee that the return from Tennessee was received at the office of State, and that it made the population of that State amount to ninety-two thousand free inhabitants, and thirteen thousand slaves.

It was ultimately agreed that the committee rise, report progress, and ask leave to sit again; which was granted.

## **MONDAY, December 21.**

### ***Georgia Limits, and Delegate from Mississippi.***

The House resolved itself into a Committee of the whole House on the report of the Committee of Elections, to whom were referred the credentials of Narsworthy Hunter, who has appeared as a Delegate from the Territory of the United States known by the name of the Mississippi Territory.

Mr. MILLEDGE spoke forcibly, and with considerable eloquence against agreeing to the report of the committee; he said it was not a matter of private but of general concern—that Georgia had jurisdiction over that territory; to prove this, he called for the reading of the memorial of Georgia to the Legislature of the Union.

[The memorial was extremely long, and was read but in part.]

Mr. M. insisted on the right of Georgia to the soil; he would assert to that body and to the world that she had never given up that right; and that therefore the laws that had been passed by Congress for the government of that territory were void, and the gentleman elected as a delegate to Congress by the Legislature of that territory had no right to a seat in the House. Gentlemen might say what they please of the expediency of Congress making laws for the government of

that territory, yet that expediency must yield to justice and to just claims; depriving Georgia of her command over that soil and over the people of that soil, was a glaring violation of right. Commissioners had been appointed to settle the dispute between the United States and Georgia; those commissioners are here, and probably it will not be long before those claims are adjusted; he hoped and trusted no farther proceedings would take place till the dispute was completely settled.

Mr. BAYARD.—The gentleman from Georgia appeared to mistake the object of the report of the select committee; that committee was appointed to examine the credentials of Mr. Hunter, and to see whether the Legislature of the Mississippi territory had a right, by the law of Congress regulating that government, to send a delegate, to exercise here the right of debating, but not of voting; it was not to admit into the Union a new State, or to erect a new State within the bounds of another. The law of Congress, establishing the government of that territory, declares that when in that territory there shall be such a number of inhabitants, they shall have a House of Representatives and a Legislature; and that when their inhabitants shall have increased to such a number, the Legislature may appoint a delegate to Congress, with the right of debating, but not of voting. It is not now a question whether a new State shall be erected, but whether this member be duly chosen. Nor are the interests of Georgia at all affected: the fifth section of the law establishing this Government expressly declares that nothing in the law for establishing a temporary government there, shall in any manner affect any claims of the State of Georgia to that soil. Commissioners are appointed on the part of the United States and Georgia to settle the dispute between the two Governments; but till those disputes shall be settled, shall the inhabitants of that territory be without a government? No, sir, it is not a matter of discretion with us; we are bound by a positive law of Congress. If the gentleman was urgent against Mr. HUNTER'S taking his seat, the only way to effect it is, by repealing the law of Congress establishing the Government of the Mississippi Territory.

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Mr. DAVIS.—The House have no business to meddle, in this case, with the claims of the United States, or of Georgia, to that territory; we have only to examine the credentials of the member, and to see whether the Legislature, in conformity to the act of Congress, were authorized, or not, to send a delegate. If that act of Congress be unconstitutional, it must be repealed by the Senate and House; yet, as it now is, we are bound to but one decision on this subject.

Mr. RANDOLPH.—He thought gentlemen did not treat the member from Georgia with due candor and respect. It should be remembered that Georgia had ever protested against the laws relative to the Mississippi Territory. It was the duty of that gentleman, as a member from the State of Georgia, to dissent; constructions might be put on silence. The United States had arrogated the power of governing that territory, at the same time saying that such assumption of power should not affect any claims of Georgia; but did not this very assumption of a right to govern, prejudice claims? We are told the commissioners are on the eve of settling the dispute; let us wait till this be accomplished. Mr. R. motioned that the committee rise.

Mr. CLAIBORNE.—He thought it right in the gentleman from Georgia to dissent; it was to be expected; he did not rise to censure him. He did not conceive that any gentleman in the House wished, in this matter, to do any thing that would prejudice the interest or claims of Georgia. The assumption of a power to give laws to the Mississippi Territory arose from the necessity of the thing, and from benevolence to the inhabitants; he would not suffer an infraction of the constitution for the world; no, not to save a world. [The Chairman called him to order: the question was now on the committee's rising.] Mr. C. said he did not know but he might be out of order, but if he was, he believed others had been in the same situation. He wished to express his opinions on the subject in common with others. It should be considered that the delegate from the Mississippi territory would have no right to vote, but only to debate; he would be only a sting, but without poison. We ought, moreover, to oblige our brethren of that Southern hemisphere; we ought to hear their statements, attend to their wants, &c.

Mr. DANA.—He was for the committee's rising. It had been usual to suffer the reports of the Committee of Elections to lie on the table, and if no protest or complaint were entered, nothing further was done with them, and the members kept their seats. In the case of the North-western and Indiana Territories, they were obliged to inquire, if it was the first time, whether there was a right to send a delegate; such is the situation now of the member from the Mississippi Territory; the records show their right to send, the report states that this delegate is duly chosen. Let the report lie on the table, and the member keep his seat.

Mr. GRISWOLD.—He was not in favor of the committee's rising. It was extremely unpleasant to the delegate from the Mississippi Territory to remain in this situation; he himself claimed a seat in that House, not as a matter of favor but of right; and this House had not the power of depriving him of this right, without repealing the act of Congress establishing a government over that Territory. Some gentlemen have said that the rights of Georgia will be affected by the admittance of this member to a seat; such certainly could not be the case; if the claims of Georgia are at all affected, it is done already by act of Congress; yet, for his part, he did not consider the claims of Georgia as affected or injured. Nor ought we to wait the decision of the commissioners: that decision may take place in a month, and perhaps will not these six months.

Mr. MACON.—There ought to be some petition or statement of facts presented by the member from Georgia, or some other person, to justify a discussion at this time, or to prevent the delegate from taking his seat. He wished his right and his credentials treated as those of any other member. He agreed with the gentleman from Connecticut, (Mr. DANA,) that it were better for the committee to rise, without leave to sit again; the member would then be entitled to his seat and his pay, till it should be shown that he has no claim to them.

Mr. BAYARD.—He did not agree with the Speaker; the face of the report of the select committee gives sufficient cause for a decision of the Committee of the Whole. The gentleman from Georgia opposes the decision of the select committee; and it is due to the member from Georgia, and to the delegate, to have the opinion of the House—to have a prompt decision. The mere question is, whether he has been duly elected; not whether the Legislature of the Mississippi Territory had a right to elect him. Gentlemen have said we are prejudicing the claims of Georgia, that their rights are implicated in this step; they have said that the act of Congress establishing a government was an assumption of power; not so: by the Spanish treaty that territory was ceded to the United States; the inhabitants were without a government; they petitioned Congress for some form of government. What was to be done? The interposition of Congress arose *ex necessitate rei*. It was no assumption of power or assertion of claims. It was a necessary establishment of a temporary government, to continue while there was necessity. He was for an immediate decision.

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MESSRS. RANDOLPH, DAVIS, BAYARD, S. SMITH, MACON, and GRISWOLD, continued the debate.

The report of the select committee was agreed to. Mr. MILLEDGE wished the yeas and nays, even if he stood alone. They were taken, and stood, yeas 77, nays 8.

## **TUESDAY, December 22.**

Another member, to wit, JOHN RUTLEDGE, from South Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

## **TUESDAY, December 29.**

### ***Library of Congress.***

Mr. RANDOLPH reported a "bill concerning the library for the use of both Houses of Congress;" which, after being twice read, was committed to a Committee of the whole House: Mr. RUTLEDGE in the chair.

The bill provided that the members of both Houses, the President and Vice President of the United States, and the Judges of the Supreme Court, should have liberty to take any book from the library to read.

Mr. SPRIGG moved, to add the Judges of the District of Columbia. He was supported in argument by Mr. DENNIS, upon the ground of the importance of the causes which this especial district would present, and the great expense and extreme scarcity of some most valuable and necessary law books.

Mr. BAYARD objected to the motion, because he could discover no reason for distinguishing the judges of the district from others; but Judges of the Supreme Court being far from their libraries, required such references. He hoped the Congressional Library would never be subjected to the abuse which books used in courts of justice were too liable to.

The motion was not agreed to.

Some observations were made as to the time which the library was to remain open.

Mr. GRISWOLD moved to confine it to the time of the session of Congress.

It was carried, with an exception moved by Mr. SOUTHWARD, in favor of the Judges of the Supreme Court, whose sessions do not accord with those of Congress.

A blank was left as to the sum to be appropriated, in addition to the remaining part of the five thousand dollars heretofore appropriated, for the purchase of books.

On the Chairman's asking the sum with which to fill the blank, Mr. RANDOLPH moved to strike out the sections, observing that, of that sum, not more than \$2,200 had been used, and \$2,800 remained unexpended. He entertained no doubt but Congress would aid the institution by every timely grant.

## **WEDNESDAY, December 30.**

### ***Internal Taxes.***

Mr. DAVIS moved the appointment of a committee to inquire into the expediency of repealing the acts imposing duties on stills and distilled spirits, on refined sugars, on sales at auction, and on pleasure carriages.

Mr. DAVIS said his object, in making this motion, was, that the House should accomplish that directly, which had been this session attempted in so circuitous a way as to embarrass and delay its proceedings. He saw no reason for going into a Committee of the Whole, in order to arrive at decisions that might better be made directly by the House itself.

On this motion a debate of considerable length ensued, in which, on the one side, the reference to a select committee, and on the other a reference to a Committee of the whole House was advocated. No decision was had, and of course the motion of Mr. D. was ordered to lie on the table.

### ***Army Reduction.***

Mr. BAYARD, during the course of the debate—in allusion to the adoption yesterday of the resolution of Mr. RANDOLPH for reducing the Military Establishment, which he thought premature, not considering the House as sufficiently acquainted with the details of the subject, to act upon it—said, that if gentlemen were for reducing the Army in whatever degree, or for abandoning it altogether, he should go with them. He would, on such occasion, be governed by the same principles which had hitherto guided him. He had heretofore been disposed to repose a liberal confidence in the Executive of the United States; and when an increase of our military force had been recommended by the President, he had invariably been for it; much more would he be disposed, when a reduction was recommended from the same quarter, to sanction it by his vote. With the Executive rested the responsibility of the exterior defence of the nation; and if the Executive was of opinion that the nation was secure with a force of three, two, or one thousand, or without even a single man, he would concur with him in giving effect to such a conviction.

Mr. RANDOLPH was called up by these remarks. He had little thought that his motion, agreed to yesterday *sub silentio*, and without the least hesitation, would have been made the topic of such animated animadversion as he had heard to-day. He would tell the gentleman from Delaware, that his motion had neither been immature in substance, nor premature as to time. It would be recollected, that previous to its adoption, the Secretary of War had been called upon to furnish information to the House. He had furnished information, to his mind completely satisfactory. He had stated the establishment to be five thousand men; and his opinion that all the garrisons required only three thousand men. Could it, then, with any reason be called premature to act upon such information? If the gentleman from Delaware, or other gentlemen thought so, why not combat a decision at the time? Did they imagine that, without the expression of a murmur by them, the mover would himself rise and oppose his own motion?

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As to the delay which had been noticed, as having taken place in the transaction of business, it was not to be ascribed to any particular mode of procedure; but to the unusual languor of the season; to the absence of several members of great weight; to the augmentation of new members not yet fully acquainted with the forms of business, and to the unusual mass of information presented to the House, which enlarged the field of action, and to the delays of printing arising from the unusual quantity of matter submitted.

### ***Internal Taxes.***

Mr. BAYARD moved that the House resolve itself into a Committee of the Whole on the state of the Union, for the purpose of enabling him to offer a resolution to the following effect:

"*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the laws laying duties on stills and distilled spirits, on refined sugar, on sales at auction, on pleasurable carriages, on stamps, and on postage of letters."

Mr. BAYARD made this motion for the purpose of placing the important subject contemplated by it in a train for decision. He thought it full time to commence our proceedings upon it; and in his opinion, it was fit that the consideration of the subject, generally, should go before the Committee of Ways and Means. The subject was so important as to strike at the vital principles of our revenue. The repeal of the internal taxes involved a reduction of six hundred thousand dollars in our receipts. The propriety of such a reduction did not constitute a distinct subject for consideration, but depended upon the deductions made on a comprehensive view of our finances, which could only be taken by the Committee of Ways and Means, to whom was committed generally whatever regarded revenue.

If the minds of gentlemen, said Mr. B., were made up to abolish all the internal taxes, it must be to them perfectly immaterial to what committee a reference was made. He knew the flattering prospects held out by the President, and he hoped they would all be verified. But his own mind was not made up, nor did he know that the minds of other gentlemen were made up on the propriety of dispensing with these taxes. He was led to this inference by observing no official notice to such effect in the communications made by the Secretary of the Treasury. On the contrary, the Secretary had so made his calculations, predicated as they were upon the continuance of these taxes, that his calculations would be greatly deranged by dispensing with them. Mr. B. knew not that we were prepared to leap this precipice. If the public burdens could be reduced, he would be delighted with the act of reduction. Yet still, if the sum of six hundred thousand dollars, derived from these taxes, could be dispensed with, doubts might be entertained whether the internal taxes were those which should be first either reduced or abolished. He held it to be a correct principle, that taxation should be equal, and that no one class of citizens should be burdened to the exemption of all other classes. From a slight consideration of the subject, he had found no other way of enabling our brethren to the westward to participate in the public burdens than by affording them an opportunity of paying their portion of internal revenue. It might appear, on investigation, that more substantial relief would be afforded to the various descriptions of our citizens, by continuing the internal taxes, and reducing those on imports; and if it should be thought proper to diminish the burden imposed on our western citizens, he would ask whether that effect would not be more substantially accomplished by reducing the tax upon salt? It would be recollected that great opposition had been made to the imposition of this tax, which had been denominated oppressive, as it fell upon an article of necessity.

Attention ought, also, to be paid to the liability of several articles to be smuggled, the only mode of preventing which was well known to be a reduction of the duties.

Mr. B. stated these circumstances, not as evidences of having matured his own ideas; but to show the necessity of referring the subject to a committee, whose special duty it was to take a general view of the resources and expenses of the nation, and who, therefore, in the present stage of the session, were alone in a situation to make the requisite inquiry.

Mr. EUSTIS said that the reasons offered by the gentleman from Delaware were with him conclusive that this was not the proper time for considering the subject. Until we know the reductions in the expenditures of the Government that are to be made, it is impossible that we can say how far it will be expedient to reduce or abolish our taxes. We had not determined to what extent the Army or the Navy should be reduced, nor had we come to any ultimate decision on any reduction whatever. For these reasons he must oppose a decision at this time upon the subject, whether that decision was in this or any other shape.

Mr. BACON concurred with Mr. EUSTIS in considering any decision as at present premature.

Mr. RUTLEDGE viewed the subject as of great importance. He could not figure to his imagination one likely to occur this session of equal importance. The President contemplated a repeal of all the internal revenues, and the imposition of all taxes upon imported articles. The Secretary of the Treasury appears, by implication, to be of a different opinion, and contemplates a continuance of these duties. What is the object of the gentleman from Delaware? Why, delay; time for consideration, by reference of the subject to a committee most competent to inquire. As to the public burdens, every member on the floor had a common feeling. We do not wish to lay unnecessary taxes. But when taxes are laid, when they are uncomplained of, it was indeed deeply interesting without consideration to decide on their abolition. Mr. R. said, for himself, he should be embarrassed by being forced into an immediate decision. We want information before we are called upon to decide. The motion seeks that information. It sends the business to the Committee of Ways and Means, to whom it belongs of right. It is their duty to consider it, for whatever relates to revenue must go to them. Gentlemen cannot say that they are surprised. By the resolution, they are not called upon to decide upon the subject; they are only called upon to place it in a train for decision.

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Mr. MACON hoped the business would be taken up, and the sooner it was done, the better. It was certainly of great importance, and the earlier the House proceeded to consider it, the sooner would they be prepared for deciding upon it. If the vote of reference was final, the arguments of the gentleman from Massachusetts would apply. But this was not the case.

It had been said that the President had declared his opinion that we can dispense with these taxes. The statement was not correct. His opinion was contingent. He had said, we may dispense with these taxes in case we proportionably reduce the expenses.

As to the remarks made respecting the different opinions of the President and Secretary of the Treasury, they likewise were erroneous. Distinct views were taken by each. The President, contemplating a reduction in the expenses, intimates the expediency of repealing the internal taxes; whereas the Secretary of the Treasury, taking things as they are, states the effects of their continuance. From these circumstances, no diversity of opinion could be inferred.

Mr. M. concluded by expressing a hope that the expenses of the Government would be reduced, that the internal taxes would be taken off, and that immediate measures would be pursued for preparing the House for a final decision.

Mr. EUSTIS was alike hostile to the present motion and to that which had been made by the gentleman from Kentucky, who had yesterday introduced the subject. He had heard the motion with a sensation of uncommon surprise; for he was of opinion that the public attention should not be attracted, or the public sensation excited, till we should be able to determine the course proper to be pursued. He felt himself unprepared to decide, and believed other gentlemen were equally unprepared. He hoped that he cherished a suitable respect for the President of the United States, though he did not know that he would go so far as the gentleman from Delaware, and disband a whole army at his word.

The wisest course was to wait until information was obtained. This would in fact be gaining time. If the Committee of Ways and Means were to consider the subject, it must be under the present state of things. They could not take for granted what might or might not be done by Congress; and before Congress could decide, they must have information which they do not yet possess. He who, under present circumstance, attempted to say to what length our retrenchments would go, and what taxes we could spare, might indeed be called a prophet.

We ought not, said Mr. E., to stir the public sensibility improperly or prematurely. By exciting that sensibility before we had determined how to act in future, impressions may be raised which we shall not be able to satisfy.

Mr. SMILIE concurred in opinion with Mr. E., and moved, as the best mode of disposing of the subject, that the committee rise.

Mr. GRISWOLD declared himself against delay. He knew not why the House were not prepared to decide immediately. The President had introduced the subject, and if any sensibility had been excited, it must be ascribed to him, and not to us. Nor did he think that any ill effects would flow from attracting the public attention. The President did not know, when he addressed us, that we would be for a reduction of the expenses; yet, thinking as he did, it was highly proper in him to give his opinion to the House. So proposed to us, it would exhibit a want of respect to that Magistrate not to take it up immediately. Not to act upon it promptly would be subversive of the national tranquillity after the attention of the public had been directed to it.

Mr. SMILIE had thought the gentleman from Connecticut was too well acquainted with the proceedings of that House to say that the Committee of Ways and Means were prepared to act upon this subject. Did they know how far we would reduce the Army, the Navy, or the Judiciary?

Mr. VARNUM hoped the committee would rise. Any disposition of the subject was at present premature. As to the calculations of the Secretary alluded to, they were made from the existing revenue, and all his deductions were made therefrom. The President had taken another view of the subject. Contemplating the probability of a reduction in our expenses, he had stated that, in such event, we could dispense with the internal taxes. But whether the contemplated reduction could be made, the House were not prepared to say. Of one thing he was sure, that not a single necessary tax would be abandoned.

Mr. DANA said, that more than three weeks have elapsed since the President's communication has been laid before us, and, during that time, a sense of decorum has not induced us to take up one of the most important parts of it. He certainly agreed with gentlemen that we ought to take up the subject and decide for ourselves. If we concur with the President, we shall repeal the laws; if we do not concur, we may, it is true, risk our popularity by opposing so favorite a measure with the people. But placed as we shall be between popularity on the one hand, and duty on the other, as honest men we should do our duty. But certainly it is our duty now to examine the subject. Grant that the reduction in our expenses may extend to a million, though scarcely half that sum could be hoped for; still the question remains what taxes shall be diminished. He could not, for his part, feel all that horror of public sensibility that had been portrayed by the gentleman from Massachusetts. What have we to fear, suppose we interfere with that sensibility? If we do so in the discharge of our duty, he was perfectly willing it should be excused; nay, it would be useful to the people themselves.

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Mr. EUSTIS was perfectly ready to meet the public sensibility, whether for or against us. We had already tried it both ways. He was much pleased with the respect professed by gentlemen for the public sensibility, and also for the communications of the President. But there were parts of those communications, which, notwithstanding the impatience of gentlemen, they would not be displeased at laying unacted upon, not merely three weeks, but three months.

Mr. BAYARD did not expect an opposition to his motion from the quarter from which it came; for he had a right to expect as much deference to the President from the opposite, as from his own side. For his part he felt no terrors at meeting the whole, or any part of the President's communications. Whatever he recommended that was right, he would vote for, and whatever was wrong, he would oppose. Though his former habits had led him to cherish a respect for the President, of which he did not repent, yet he felt no servility that would lead him to repress an expression of his sentiments.

A gentleman from Pennsylvania had talked about reducing the Army, the Navy, and the Judiciary. But there were other expenses which the gentleman might have dwelt on. Why silent on the Legislature? Let us reduce the length of our sessions. It did not appear consistent in that gentleman to strike at the Judiciary, and other departments, and leave untouched whatever affected himself.

Mr. RANDOLPH did not desire to occupy much of the time of the committee, as he thought it immaterial whether the committee rise or not. But he wished, for the information, and perhaps for the satisfaction, of the gentleman from Massachusetts, to state that, among other members, he was one who had not decided whether Government could dispense with the internal taxes. He hoped, and was inclined to believe, that they might be dispensed with. The Secretary of the Treasury had expressly stated that part of his report was speculative, viz: that part which inferred the effects of peace. The correctness of the opinion of the Secretary on this point must decide the House as to the propriety of giving up these taxes. He was one who, though he did not think a state of peace would materially affect the revenue, had not decided whether a reduction of the public impositions in this or that species of revenue should be made. He noticed these things, to prevent an impression being made on the public mind that the House were for precipitating a decision. As to the public sensation, he felt no alarm. He knew that our measures must depend upon the reductions we shall make.

Mr. R., for these reasons, was against any decision now; and had the gentleman from Kentucky pressed his motion yesterday, he was prepared to move a postponement of it. In the mean time, there were other important topics involved in the Message that might be referred and acted upon.

Mr. DANA presumed that the honorable gentleman from Massachusetts had done him the honor of alluding to him in his remarks. He was not very solicitous that the subject should be inquired into, but since it was brought up, he must say that nothing short of the talents of the honorable gentleman could furnish a semblance of reason for not going immediately into the inquiry. That gentleman errs egregiously, if he imagines that I can dread an investigation of any point involved in the President's Message. He would add, that whatever his particular opinion might be of the person to whom had been confided the Government of the nation, it became him only to see in him the First Magistrate of the country, and to treat him with correspondent respect, and to see in what he did, not the man, but the measure.

The question was then taken on the committee rising, and lost—yeas 29, nays 48.

The reference to the Committee of Ways and Means was then carried, both in committee and in the House, without a division.

The House adjourned till Monday.



WILLIAM BARRY GROVE, from North Carolina, appeared, produced his credentials, and took his seat in the House.

*Ordered*, That Mr. MILLEDGE be appointed to the Committee of Ways and Means, in the room of Mr. DICKSON, who is sick and unable to attend.

*Judiciary System.*

Mr. RANDOLPH moved that the House should go into a Committee of the Whole on the state of the Union, with the view of submitting three resolutions to the committee, viz:

"*Resolved*, That it is expedient to inquire whether any, and what, alterations should be made in the Judicial Establishment of the United States.

"*Resolved*, That provision ought to be made for the impartial selection of juries.

"*Resolved*, That it is expedient to inquire whether any, and what, reductions can be made in the civil expenses of the Government of the United States."

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The House accordingly went into committee.

Mr. BAYARD presumed an agreement to these resolutions would, in their present shape, meet with no opposition. It was impossible to determine what shape they would ultimately assume. The Judiciary system was doubtless susceptible of amendment, and if any proper amendments should be proposed, he would concur in their adoption. With respect to the second resolution, though he did not know that there was any necessity for altering the mode at present practised of selecting juries, not having heard of any complaints under it, yet, as the resolution only led to an inquiry into the subject, he would not object.

With regard to the last resolution, it was one in which we must all concur. The object, if attainable, would be extremely grateful to all of us.

The three resolutions were agreed to without a division. The committee then rose, and reported them to the House.

On the report being taken up, Mr. RANDOLPH moved that the consideration of the two first resolutions be postponed till the third Monday of January.

Mr. BAYARD hoped the motion for postponement would not prevail. The propositions were abstract ones, leading to inquiry, and the sooner they were acted upon, the better. The mode pursued by the gentleman from Virginia, if his simple object was to give notice, was the least happy that he could have devised, for it gave to gentlemen no opportunity to prepare themselves, as they were totally unacquainted, in the present stage of the business, as to what would be the alterations proposed. If a committee were now appointed, they would have time to deliberate on a subject of the utmost importance—one so complicated as to require great attention. When their report was made, he would be one of those who would ask from the candor of the House time to consider it.

Mr. RANDOLPH said, he was at all times willing to accommodate gentlemen of every political description on proper occasions. Apprehending that his resolutions, if taken up in the House, would give rise to discussion, he had moved for their postponement, from a wish not to interfere with the desire of the gentleman from Pennsylvania, and other gentlemen, to act on the apportionment bill. As his motion for postponement appeared likely to be itself productive of discussion, by which the time of the House would be exhausted, and the means he used defeat the end he had in view, he would withdraw his motion.

The House then agreed to the resolutions without a division.

Mr. RANDOLPH moved the reference of the two first resolutions to the same committee.

He said, in reply to the gentleman from Delaware, that he made the motion respecting juries not because any complaint did at present exist of the exercise of the powers under which jurors were selected, but because they had not long since existed, and because in similar circumstances they might again exist. He was glad the gentleman from Delaware had no reason to complain of their present abuse. But this was no security against the future.

Mr. BAYARD said, that he had spoken as he had done, not for the purpose of expressing any opinion that any abuse respecting juries had been recently removed under the present state of things; but to state that he had never heard of any complaints on this subject in the part of the Union from which he came; and he had particularly alluded to the mode of designating jurors in his State, which was by ballot. But if there were complaints in other parts of the Union, he would cooperate in any means that could be devised for removing them.

Mr. SMILIE said, that since the gentleman from Delaware had introduced the subject, and had declared that no complaints existed, he would say that complaints had existed, that just grounds for them existed, and that they had been expressed in the loudest tone. And he would appeal to the gentleman from Delaware whether any man could be safe who was at the mercy of a marshal, who was the mere creature of the President.

Mr. BAYARD.—While man continues as he is, there will be complaints on this subject. We are divided into parties. The people, as well as the President, must belong to one side or the other; and whether we have sheriffs chosen by the people, or marshals appointed by the President, the evil will still exist. He had no objection, if it were the wish of gentlemen, that the marshals should

be appointed by the people; though we know that the people are as apt, nay more apt, to be infected with violent political feelings, than an Executive officer.

Mr. RANDOLPH said, that without desiring to exhaust the time of the House on a point where there was no difference of opinion, he could not permit the observation of the gentleman from Delaware to pass unnoticed; that an officer, holding a lucrative office, appointed by the President, and dependent upon his will, is as independent as a sheriff, elected in some States annually by the people, and in other States appointed in a manner calculated to ensure his independence. He would instance the State of Virginia, in which the sheriffs were nominated by the justices of the county courts, who, it was understood, were to hold the office of sheriff in rotation. Will the gentleman say that these men, who are independent of the pleasure of any man, are liable to be made the same tools, with officers who hold their appointments at the absolute will of one man?

Mr. R. would further say, that the remark of the gentleman from Delaware, that the existence of no complaints had ever come to his ears, had excited his extreme astonishment. In North Carolina, he believed, no legal jury had been selected since the establishment of the Federal Government. In that State, in the State courts, all juries are first selected in the inferior courts, and then sent to the superior courts. He would ask, how, under these circumstances, a jury could be struck in a federal court in that State agreeably to law? In Virginia and Pennsylvania, the independence of sheriffs is secured; therefore, no restrictions are imposed upon them in selecting juries; whereas, in the federal courts the marshal is the abject creature of the Executive—and yet we are told the security is the same! Mr. R. did not wish to consume the time of the House; but when views are taken by gentlemen calculated, either as to fact or sentiment, to lead the public mind astray, if other gentlemen did not, he would invariably notice them.

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Mr. BAYARD desired to explain. He had not meant to contend that sheriffs chosen for three years by the people were as dependent as similar officers appointed by the President. He had alluded to the effects which flowed from a marked division of parties. We were in all events subject to that evil. It was a truth that men deeply infected with party were more apt to be chosen by the people than by an Executive magistrate; because the people felt more strongly a degree of political fanaticism.

After some further debate, it was determined to refer the two first resolutions to a committee of seven, and the last to a committee of five members.

*Ordered*, That Mr. NICHOLSON, Mr. JOHN TALIAFERRO, JR., Mr. GODDARD, Mr. RUTLEDGE, Mr. ISRAEL SMITH, Mr. HENDERSON, and Mr. BAILEY, be appointed a committee, pursuant to the first and second resolutions.

*Ordered*, That Mr. BACON, Mr. GROVE, Mr. ELMENDORPH, Mr. HEMPHILL, and Mr. ABRAM TRIGG, be appointed a committee, pursuant to the third resolution.

## **TUESDAY, January 5.**

### ***Apportionment Bill.***

On the question being taken for striking out thirty-three, it was lost—yeas 42, nays 48.

Mr. DENNIS moved to strike out eight, the number of Representatives allotted to Maryland, and insert nine; which amendment had been rendered necessary by the supplementary return received from Maryland.

On this motion a very desultory debate took place, which was twice interrupted by motions for the committee to rise, which were both lost.

Much personal recrimination, chiefly on the charge of delay on the one side, and precipitation on the other, was exchanged.

The amendment was at last agreed to—yeas 57.

The committee then rose and reported the bill as amended.

The House immediately took up the report of the committee, agreed to the amendments, and ordered the bill to be engrossed for a third reading to-morrow.

## **THURSDAY, January 7.**

### ***Stenographers.***

The House went into Committee of the Whole on the standing rules of the House.

Mr. LEIB moved the addition of the following rule:

"The Speaker shall assign such places to the stenographers on the floor, as shall not interfere with the convenience of the House."

Mr. LEIB prefaced his motion, by observing that, in the standing rules proposed, no provision appeared to be made for the admission of stenographers. They had heretofore been subject to the will of the Speaker. However great his respect for the present Speaker, he was of opinion, that they should not depend for their accommodation upon the will of any man; and he thought it became the House, on this occasion, to establish a precedent which would place those who took

the debates above the caprice of any individual.

Mr. HUGER moved to amend the motion so as to read as follows;

"Stenographers shall be admitted, and the Speaker shall assign to them such places on the floor as shall not interfere with the convenience of the House."

Mr. LEIB agreed to this modification.

The motion was opposed by Mr. GRISWOLD, Mr. RUTLEDGE, Mr. VARNUM, Mr. HEMPHILL, Mr. T. MORRIS, Mr. EUSTIS, Mr. DANA, Mr. ELMER, and Mr. GODDARD; and supported by Mr. LEIB, Mr. S. SMITH, Mr. NICHOLSON, Mr. CLAIBORNE, Mr. SMILIE, Mr. HOLLAND, and Mr. SPRIGG.

Mr. HUGER opposed the original motion of Mr. LEIB, but supported the motion, as amended by himself.

The opponents of the motion declared, that it did not relate to substance, but merely to form; that it was allowed on all hands, that the debates should be taken, and that stenographers should, consequently, be admitted. But the single question was, how, and under what authority, they should be admitted. They remarked, that they had heretofore been admitted by the Speaker, under whose direction they had remained; that the Speaker was the only proper authority under whose direction they ought still to remain; that, as the preservation of order and decorum rested with him, the stenographers, as well as other persons, should be permitted by him to enter the House, and be by him excluded, whenever, in his opinion, the order and a respect for the House required it. That, in case stenographers deported themselves in a disrespectful manner, or grossly misrepresented the ideas of members, the Speaker was the only person who could effectually cure the evil; that there had been, and might again be, instances of such misconduct; that, in one case, a stenographer had entered the House in a state of intoxication; another case, a speech of a gentleman from South Carolina, had been perversely misrepresented, and the stenographer had refused to correct his errors, for which he had been expelled the House; and that, in another case, the Speaker, considering himself as misrepresented, had expelled the stenographer.

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Among the opponents of the motion, a great diversity of opinion prevailed. Mr. EUSTIS, Mr. VARNUM, and Mr. ELMER, objected to it, merely on the ground that it was improper to come to any solemn decision, which was the less necessary, as the stenographers already occupied convenient seats, from which there was no probability of their being extruded by the Speaker.

Those who supported the motion, considered its decision as involving an important point; a point no less important, than, whether the debates of that House should be taken with accuracy, and published without fear or partiality. They averred it as a fact, that, owing to the unwarrantable conduct of the Speaker, this had heretofore, at many periods, not been the case. The public had sought information without being able to get it. It was true, that a stenographer had been expelled for publishing a speech of a gentleman from South Carolina; but it was not for misrepresenting that speech, but for faithfully publishing it; and in the other case alluded to, a stenographer had been expelled by the Speaker, for stating, with correctness, what the Speaker had himself said. These were alarming facts, not to be forgotten, and which claimed the interposition of the House. If stenographers should be guilty of indecorum, they could still (this rule notwithstanding) be expelled the House. It was acknowledged that the gentleman who at present filled the chair, was entitled to the full confidence of the House, but it was dangerous to vest arbitrary power in the hands of any man, and it was peculiarly proper to provide in fair, for foul weather; and it was added, that though the proposed rule would not be obligatory upon a future House, yet it would form a precedent, which they might see fit to respect.

The motion, as modified by Mr. HUGER, was then agreed to—yeas 47, nays 32.

The committee then rose, and reported the rules with the above amendment.

The amendment was immediately taken up; when

Mr. RUTLEDGE moved to amend the report of the committee, by making it read as follows:

"Stenographers may be admitted under the direction of the Speaker, who shall assign to them such places on the floor, as shall not interfere with the convenience of the House."

On this amendment a further debate ensued; after which, the yeas and nays were called, and were—yeas 27, nays 51.

Another motion was then made and seconded to amend the said amendment, by inserting after the words, "stenographers shall," the following words, "until otherwise ordered by the House;"

And, the question being thereupon taken, it passed in the negative.

And the main question being put, that the House do agree to the amendment for an additional rule, as reported from the Committee of the whole House, it was resolved in the affirmative—yeas, 47, nays 28.

*Resolved*, That this House doth agree to the said standing rules and orders, as amended.

## MONDAY, January 11.

Another member, to wit, SETH HASTINGS, from Massachusetts, produced his credentials, was qualified, and took his seat in the House.

### ***Mediterranean Trade.***

Mr. RANDOLPH moved a resolution directing the Secretary of the Treasury to lay before the House an estimate of the value of the exports of the United States, for the last five years, to ports situated within the Straits of Gibraltar, discriminating articles of American growth from other productions.

Mr. RANDOLPH observed that he was aware of the inability of the Secretary to distinguish precisely the exports of the United States, carried to the Mediterranean ports of France and Spain, from those carried to their other ports. But still he thought it probable that the Secretary might be able to furnish information that would be valuable.

Mr. S. SMITH said, that when the report was made by the Secretary, it would be a report of deception. A great part of our trade to the Mediterranean had been lopped off in consequence of the war.

Mr. SMITH afterwards remarked that, on the report being made, he feared the inquiry would be, whether we should give up the protection of the Mediterranean trade, or not. Gentlemen would probably go into a calculation of figures; and if the expense of protection appeared to be greater than the benefit of the trade, they might be for withholding protection. There was one description of trade to the Mediterranean, which we could obtain no estimate of, which was however very important—the tonnage of American shipping employed in going from European ports to the Mediterranean, and from the Mediterranean to European ports, and American shipping employed between the East Indies and the Mediterranean. This trade the Government was as much bound to protect, as it was bound to protect the landed interest of the country. Still, Mr. S. knew not that it would be proper to oppose the passage of a resolution that asked for information.

Mr. SMILIE knew not what information we could receive; but he knew that whatever it should be, it could do no harm.

Mr. NICHOLSON remarked, that the House would not be in a worse situation after the report, than it was now. For himself, he was in a state of total ignorance, and he believed a large part of the House was also ignorant of the extent of our Mediterranean trade. It was impossible that the House could be deceived by the report; as, if any part of it should be calculated to deceive us, his colleague would be able to detect its errors. He had heard, and that too from commercial men, that our Mediterranean trade was not valuable, and not worth the expense of the squadron fitted out to protect it. He was at a loss to decide between these opinions and those of his colleague.

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Mr. MITCHILL spoke in favor of the resolution.

Mr. GRISWOLD had no objection to obtaining the estimate, if desired by gentlemen; not that he supposed the report could present the information that was desired. With regard to our Mediterranean trade, it was well known, that lately, owing to our contest with Algiers, our fish and oil went in European bottoms, which could not be noticed in the Treasury statements, as they went first to other ports.

Mr. EUSTIS was perfectly willing to obtain the report, that the great increase in our trade to the Mediterranean should be seen; from which its great value would fully appear, and its claim to encouragement.

Mr. VARNUM suggested the propriety of a reference to a select committee, which, from the documents before the House, could select the desired information.

Mr. RUTLEDGE feared, that the call for this information would delay the passage of an important bill before the House for the protection of our Mediterranean commerce. He hoped, in order as promptly as possible to obtain information, the Secretary of the Treasury would be called upon for it. With respect to the protection of our trade in the Mediterranean, it was, in his opinion, unimportant what its extent was. We were bound to protect the commerce of our citizens in all its ramifications, whether great or small.

The resolution was then agreed to.

### **THURSDAY, January 14.**

Another member, to wit, JOHN DAWSON, from Virginia, appeared, was qualified, and took his seat in the House.

### **WEDNESDAY, January 20.**

#### ***Military Peace Establishment.***

The House then took up the amendment to the bill fixing the Military Peace Establishment.

Mr. BAYARD moved to strike out the office of Brigadier General. He said there could not be any occasion for such an officer, as the men were scattered over the whole extent of our frontiers and Atlantic coast, and placed in small divisions.

This brought on a debate which was continued until after three o'clock.

The question was taken by yeas and nays for striking out—36 against it, 54 for it.

Mr. BAYARD moved to strike out the office of colonel, and add one to the number of majors; but it

was not agreed to.

The bill proposed to give those officers who should be deranged, three months' pay when they were dismissed from the service.

Mr. GRISWOLD moved to strike out "three months," that a greater compensation might be given to those who have grown gray in the service of their country. He thought more was due to them than what the bill proposed to allow.

Mr. VARNUM said, his own opinion was in favor of a greater compensation; but he owed it to a majority of that House, to yield his opinion to what they had fixed it at. He said there was nothing due to those officers, as nothing had been promised them.

Mr. MITCHILL was in favor of striking out, for the purpose of inserting a compensation proportionate to the length of time the officers had been in service.

Mr. BACON differed as to the principle laid down by gentlemen. When officers were wanted, there was great competition for the appointments. They were desirous to receive the pay and emoluments. He did not think there was any thing due to them.

Mr. S. SMITH was for pursuing some system in this business, and keeping to a uniform principle. When a reduction was made in 1796, six months' pay and subsistence was granted. He would be in favor of that at this time.

Mr. DANA believed those officers accepted their appointments under an idea of its being the permanent Peace Establishment, and therefore something was due to them when dismissed from the public service.

Mr. SMILIE said, they knew the terms on which they entered the service, and they entered voluntarily. How could any thing, then, be due to them? It would be more proper to give the men something when disbanded than to provide for the officers. It was not long since that about forty were wanted, and there were thirteen hundred applications. Men could not always be obtained. When the ten regiments were ordered to be raised, the officers were soon obtained; but, after recruiting a long time, the proper number of men could not be procured.

The question for striking out was taken by yeas and nays—for it 26, against it 56.

Mr. S. SMITH made a motion to raise it to the same as was granted in 1796.

Mr. EUSTIS advocated it, but it was not carried, there being 26 for it, and 45 against it.

The bill was ordered to be engrossed for a third reading to-morrow.

## **THURSDAY, January 21.**

### ***Military Peace Establishment.***

An engrossed bill fixing the Military Peace Establishment of the United States was read the third time.

Mr. BAYARD observed that he should vote for the bill, because he thought it better than the former system, and it would be of much saving as to expense. He was, however, very far from being pleased with a part of that bill, that part relating to the Brigadier General and his aide-de-camp. This office he knew to be a perfect sinecure; no such officer was necessary; he could have no duties to perform. He would not, however, vote against the whole bill on account of this.

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Mr. RUTLEDGE.—The first section was very disagreeable to him, as it went to the establishment of a perfect sinecure. He was willing to do homage to the merit of the officer who was to benefit; but he rather thought it would be more consonant with justice, if money must be needlessly sported with, to suffer such money to be given to those who have been long in service—some fifteen or twenty years—and who are now by this bill suddenly forced to quit their present, to seek some new way of obtaining a livelihood, in circumstances, many of them perhaps, not enviable.

Mr. R. was not pleased with the so great reduction of the artillery; he thought the retention of the artillery of more importance than that of the infantry. He had hoped the artillery would have been retained to keep in order the forts already built in different parts of the United States; the small number remaining was quite incompetent to preserving them in order, or preserving them from decay. The Secretary of War mentions one fort in South Carolina. There are, sir, four forts in the harbor of Charleston alone, some of which must go to decay. He should vote for the bill because it went to make great reductions of expense, which reductions circumstances now allow us to afford; but the sinecure was obnoxious to him, and he was not pleased with the reduction of the artillery.

On the question that the bill do pass, it was resolved in the affirmative—yeas 77, nays 12.

### ***Mediterranean Trade.***

The House again resolved itself into a Committee of the whole House on the bill for the protection of the commerce and seamen of the United States in the Mediterranean and adjoining seas.

Mr. BAYARD offered an amendment, the purport of which, was to give to the President the power of granting letters of marque and reprisal, to affect Algiers and Tunis as well as Tripoli. Mr. B.

thought that it would be unsafe to neglect a cautionary step like this, because there was great danger, from the similarity of religion and manners, of a union taking place between Tunis, Algiers, and Tripoli; they may be brought into the war with Tripoli against us. It would be a matter of prudence to be prepared.

Mr. DANA thought it very probable that further information would be received from the Barbary powers, when we shall be the better enabled to judge what will be expedient. He did not like the appearance of the amendment; it seemed to invite war.

Mr. BAYARD considered there was a great difference between the Barbary powers and civilized nations; it was on account of the perfidiousness of those powers, that he wished it left to the direction of the President to exercise the power vested in him when he should think proper; there was no trusting to them. He wished the President to do this by the authority of law; this would prevent those doubts that have been expressed by some, of the constitutionality of his measures the last spring and summer; though for his part he was disposed to approbate the proceedings of the Executive on that occasion. As to its having the appearance of threatening, he did not think so; nor did he believe it would have any effect on those powers; he hardly believed that the Dey of Algiers ever read the acts of Congress.

Mr. DANA was opposed to considering the subject at present; he was for postponing till further information should be received.

Mr. GILES was against the amendment; he thought it had the appearance of inviting them to an attack, of challenging them to combat, of irritating and provoking them: he believed there would be ample time to act on this matter hereafter, when they would have a better knowledge of circumstances, and of what to expect.

Mr. BAYARD said he was by no means disposed to withdraw his motion. You are at war with one of these nations; the others are connected with them by their religion and habits, by their government some, and by their interest more. I have been told that there is no connection between my amendment and the bill; but I am confident there is the same connection that there is between Tripoli and the other powers; and it is proper to extend the bill so as to embrace Tunis and Algiers, as well as Tripoli. The gentleman from Connecticut (Mr. DANA) says there are no doubts on his mind but that the President has a constitutional right, as the Commander-in-chief of the army and navy, to do as he has done; but it should be remembered that many have doubts; and why should the gentleman be opposed to this amendment, which will preclude all doubt on the subject.

The amendment was not carried.

### ***Direct Taxes.***

The House then went into a Committee of the Whole on the bill for amending the act for laying and collecting a direct tax.

The first section repeals the thirteenth section of the act of 1798, which prescribes that lands on which taxes remain unpaid for one year, shall be sold subject to the right of redemption within two years after sale.

Mr. RANDOLPH stated that the provisions proposed to be repealed were unsusceptible of execution, inasmuch as the expenses of advertising required, exceeded in many cases by four or five times, the amount of the tax, and which exceeded the per centage allowed; and inasmuch as no person would buy the land offered for sale, when he might be deprived of it by a redemption within two years.

Documents were read which substantiated this statement.

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Mr. S. SMITH opposed the repeal, as going to deprive the owners of lands of the right of redemption; which he deemed a valuable provision; without which the owners of land, particularly non-residents, would be deprived of their property, without a knowledge of the tax imposed, or being able, however desirous, to pay it.

Mr. RUTLEDGE also opposed the repeal, as imposing hardships upon those who have not paid the tax, which were not imposed upon those who have paid. He further stated that the non-payment in the Southern States had arisen, not from indisposition to pay, but from want of collectors to carry the law into execution; the compensation allowed having been so inadequate as in many districts to have disabled the Government from obtaining officers.

Messrs. GRISWOLD, MILLEDGE, STANLEY, and MORRIS, delivered their sentiments against the first section; when, on motion of Mr. MACON, the committee rose, and asked leave to sit again, which was granted.

### **FRIDAY, January 22.**

Another member, to wit, ROBERT WILLIAMS, from North Carolina, appeared, produced his credentials, was qualified, and took his seat in the House.

### **MONDAY, January 25.**

#### ***Import Duties.***

Mr. NICHOLSON called up the resolution he laid on the table on Friday, for instructing the Committee of Ways and Means to report generally on the subject of impost duties.

Mr. LOWNDES wished to amend it so as to direct the attention of that committee particularly to the articles of salt, brown sugar, coffee, and Bohea tea.

This the SPEAKER considered out of order, as resolutions on those subjects were then before the House.

Mr. RUTLEDGE and Mr. BAYARD wished to withdraw the resolutions they had offered on the articles of salt, brown sugar, &c.

Mr. SPEAKER considered the resolutions in possession of the House, as they had been debated, and the previous question taken on them, and no motion could be made while another motion was pending.

Mr. BAYARD asked for information whether it was in order for him to state that he withdrew his resolution?

Some conversation took place as to points of order.

The question on the resolution was called for.

Mr. DANA said there was no instruction given to the committee by the resolution of December 13, to make a report on the subject of imposts and tonnage. He was pleased to see this resolution moved by the gentleman from Maryland, as it showed his belief to be that the subject was not referred to the committee.

Mr. DANA expressed his wish that two things should be referred to the Committee of Ways and Means: First, a general view of the duties of imposts and excise that they might be contrasted; and, secondly, that certain articles should be specifically referred to them.

Mr. NICHOLSON said the gentleman from Connecticut was very much mistaken as to the object of his resolution. It was not that he did not think the subject before the committee, but as so much had been said about the former general reference, he wished to prevent the gentleman from Connecticut from quibbling respecting the reference.

[Here Mr. N. was called to order by Mr. GRISWOLD. The SPEAKER declared it as his opinion that the gentleman was in order. Mr. BAYARD appealed to the House, and called the yeas and nays, which were agreed to be taken.]

*Internal Revenues—Expenses of collection compared with Custom House Duties.*

Mr. BAYARD called up the following resolution, which he had some days previously laid upon the table, viz:

"Resolved, That the Secretary of the Treasury be required to lay before this House an account, in detail, of the expenses incurred in the collection of the internal revenues of the United States; distinguishing, where the same may be practicable, the expenses attending the collection in each branch of the said revenue, and, also, an estimate of reduction of said expenses which may conveniently be made."

The resolution having been read, Mr. B. said: As it is extremely possible, Mr. SPEAKER, that it is designed that this resolution shall share the same fate with that which the resolution of the gentleman from New York experienced this morning, I shall be allowed at least by publicly stating, to justify to the world, the motive which induced me to bring it forward. [Mr. B. alluded to a resolution offered by Mr. T. MORRIS, the object of which was, to direct the Secretary of the Treasury to state to the House the amount of stamp duties collected in each State, distinguishing what part was paid by the commercial cities. When the resolution was taken up there was a call for the question. Nothing was said against the propriety of it. It being merely a call for information, and considered so much a matter of course to agree to such resolutions when no opposition was made to them, it was not supposed necessary to say any thing on the propriety and reasonableness of the resolution. Yet, to the astonishment of its friends, when the question was put, there were for it 34, against it 54.]

Gentlemen are infinitely deceived, said Mr. B., if they think our object is, by any particular mode of proceeding, to gain an unfair advantage of public opinion. If such a suspicion be entertained, our conduct has been viewed with a jaundiced eye. It is a motive which never has, and I hope never will direct our measures. If popularity is to be gained only by a prostitution of principle to ignorant and unthinking prejudice, we are content to forego it. I am far from being indifferent to public opinion; the approbation of our fellow-citizens is the only reward we can expect for our services; but it is a reward no honest man will seek, if it is to be acquired only by artifice and deception.

I have avowed and avowed sincerely, that I am disposed to go hand and hand with gentlemen in the reduction of public burdens. When it was necessary I assisted in imposing them—now that circumstances permit I more cheerfully co-operate in taking them off. My true object is to make the most of our situation; not to be deluded by empty theories, or speculative systems, but, by an enlarged view of the various interests of the country, to discover by the reduction of what taxes the society would be the most substantially benefited.

The reduction of the Military Establishment creates considerable savings; other retrenchments are contemplated in the Navy and civil administration. These savings enable us to dispense with certain taxes; but is it not wise to examine diligently the operation of the several taxes which exist, and, after being informed by the various views which belong to the subject, to exonerate

the community from those which, with the least benefit, are the most burdensome?

One great objection to the internal taxes is the expense of collection. I wish to know the particulars of this expense in order to see whether it may not be curtailed. I wish also to be informed of the expenses attending each branch of the revenue, for the purpose of judging whether it may not be expedient to retain some branches, while it may be wise to part with others. These are my objects; do they not entitle us to the information asked?

We know in one instance, that the expense in collecting the stamp duty is less than five per cent. This appears by the report of the Secretary of the Treasury; but we are not informed of the particular expenses belonging to the other branches of the revenue.

Sir, said Mr. B., I must rely that the resolution will be agreed to; there is not a precedent in our annals or opposition to such a resolution; if, however, one is now to be introduced, I think it proper that the names of those gentlemen should hereafter appear by whom it was resisted, and by whom it was established. He therefore hoped the question would be taken by yeas and nays.

The Clerk, at the request of Mr. RANDOLPH, read an extract from the report of the Secretary of the Treasury, as follows:

"It will appear by the same statement, [M.] that while the expenses of collection on merchandise and tonnage, which are defrayed out of the revenue, do not exceed four per cent., those on permanent internal duties amount to almost twenty per cent. This, however, is an inconvenience which, on account of the great number of the individuals on whom the duties are raised, and of their dispersed situation throughout the whole extent of the United States, must, more or less, attach to the system of internal taxation so long as the wants of Government shall not require any considerable extension, and the total amount of revenue shall remain inconsiderable."

Mr. T. MORRIS.—If the honorable gentleman from Virginia (Mr. RANDOLPH) thinks that the extract of the report of the Secretary of the Treasury, the reading of which he has called for, furnishes the information demanded by my honorable friend from Delaware, he is mistaken. The Secretary's report gives you a general estimate of the expense of collecting the aggregate of the internal taxes, but does not specify the charge falling on each separate tax. From the statement exhibited by the Secretary, it appears that it costs twenty per cent. to collect the whole of the internal taxes; but if the detailed statement asked for by the gentleman from Delaware is furnished, it will appear that the collection of some of those taxes does not cost more than five or six per cent. To show how unfair it is to connect together the expense attending the collection of all the internal taxes, I need only refer gentlemen to an authority which I believe they will not dispute. If my memory, sir, is not very incorrect, it will appear by a publication of the present Secretary of the Treasury, written in the year 1796, that the tax on country distilleries cost in its collection near thirty per cent.; that on city distilleries about nineteen. These, sir, and other reasons, may evince the propriety of repealing the tax on country distilleries; but because this tax is expensive in its collection, because it may be liable to objections, does it follow that other taxes, such as the tax on carriages, on refined sugars, &c., which fall on the rich, and which are not expensive in the collection, does it follow, I say, that because it may be proper to repeal the first, that these are to fall too? It is, sir, in order to be enabled to make proper discrimination, to be enabled to know which of these taxes ought to be repealed, and which retained, that the gentleman from Delaware has moved his resolution. And here, sir, let me be permitted to express a hope, that the resolution now before you may not meet with the silent negative which was the fate of one intended also to procure information, and which I had the honor of laying on your table. I did and do still believe, sir, that the majority of this House could not have been actuated by proper motives in refusing that information. [Here Mr. RANDOLPH called Mr. MORRIS to order, saying that he had no right to impeach the motives of members. Mr. M. observed that for his part he was at a loss to know what was considered disorderly in that House, but that he would submit to the correction of the Chair. The SPEAKER determined him to be in order, and Mr. M. proceeded.] With regard, sir, to the course of proceeding which gentlemen have lately adopted, persevering in an inflexible silence, rejecting every proposition made by a member in the minority, without deigning to show its fallacy, refusing public documents for our information and that of our fellow-citizens, without showing, or even pretending to show, that they are unnecessary, I can only say that it militates against all my ideas of propriety. I have always hitherto supposed that every Representative on this floor had a right to be heard; that he had a right to call on the majority for their reasons both when they supported and opposed public measures. Gentlemen may, if they please, meet in what they have denominated caucuses when power was in other hands; they may then confer together about the measures in which they may think proper to unite; but, sir, if their debates are to take place there, and there alone, if we are not to be furnished here by them with the reasons which induce them to adopt public measures, they ought at least to open their doors to the minority, in order that, if they cannot hear their arguments in the proper place, they may not close them altogether. I trust, sir, that gentlemen themselves will see the impropriety of persevering in this line of conduct, and that they will consent to pay, if not to gentlemen in the minority, at least to their propositions, the attention and respect which they may deserve.

Mr. GRISWOLD said, that he presumed the gentleman from Virginia (Mr. RANDOLPH) had requested that the extract from the report of the Secretary of the Treasury might be read, and which the House had just heard, for the purpose of proving that the resolution under consideration ought to pass. Indeed that report, and the statement to which it referred, evinced in the most satisfactory manner that the information required by the resolution was absolutely necessary for the purpose of enabling the House to decide understandingly on the proposition, which it was expected would



soon be brought forward, for abolishing the internal taxes. The Secretary in his report had declared that the expense of collecting the internal taxes amounted nearly to twenty per cent. on the amount collected. It appeared, however, from the statements to which the Secretary had alluded, that the tax on stills, the carriage tax, the tax on licenses, on sales at auction, and the tax on refined sugar, had been included in one class, and the expense of collecting all those taxes, without distinguishing the charges on each branch, had been stated to be nearly twenty per cent., whilst the expense of collecting the stamp duty, another branch of the internal taxes, was short of five per cent., varying only a fraction from the charges on the revenue from impost and tonnage. These statements might be satisfactory as far as they went, but it was obvious that in examining the branches of a revenue, with a view to the expense of collection, it became necessary to ascertain the precise charge which had fallen on each branch, and to obtain this necessary information, and which the report and statements had left defective, the resolution had been principally brought forward. And what had rendered this information peculiarly necessary at this time was the ground which had been taken in opposition to the internal taxes. The only argument which he had heard against those taxes, and which did not equally apply to the impost, was drawn from the great expense which had arisen in the collection. To enable the House, therefore, to decide whether the fact existed on which that argument had been founded, it became necessary to inquire in the manner proposed by the resolution whether the extraordinary expense with which those taxes had been charged might not be diminished, and whether the expense really existed in relation to each description of them.

Mr. G. said that he presumed no gentleman was prepared to say that the general expense of collection might not be diminished, and so far was he from believing that every branch of the internal taxes was subjected to the charge of nineteen or twenty per cent., he was perfectly confident that if gentlemen would agree to the resolution, the detailed statements, which the Secretary would furnish in obedience to it, would prove that the expense of collecting certain branches of those taxes would fall much short of the sum at which the same has been estimated.

The consent of the House, said Mr. G., to every call for information, had formerly been so much a matter of course, that he should not have troubled the House with any remarks upon so plain a question as the present, had not the experience of this day proved, that gentlemen were not always to be indulged by the House with the information which they required; and the profound silence which had at this time been observed by those gentlemen who could either admit or reject the resolution, appeared to indicate a determination on their part to refuse the important and necessary information required by the resolution. He did presume, however, that upon this occasion the House would consent to the resolution, and more particularly, as the report of the Secretary of the Treasury, which had been read at the request of the gentleman from Virginia, proved so clearly the necessity of passing it.

Mr. HUGER could not reconcile it with his sense of duty, to give a silent vote on the present occasion, nor could he but lament the strange and novel course of proceeding which gentlemen had thought proper to adopt. The intention, it would seem, was to repeal the internal taxes, right or wrong, and at all events; and so determined were gentlemen on carrying this favorite project into execution, that every thing like previous investigation, or even a wish to gain information on the subject, was hooted at and treated with the most sovereign contempt. Every, the smallest, reduction on taxes of any other description, was avowedly to be excluded, nor was any proposition to this effect deemed worthy of even a moment's consideration. The measure proposed, however, interested in a very particular manner that part of the community he had the honor to represent. They paid, it was true, a small portion of the internal taxes, but the various other taxes upon salt, brown sugar, coffee, &c., and the duties on imposts generally, fell more immediately and far more heavily on them. Was it not natural, therefore, that he should have some hesitation on the subject; that he should feel anxious to see this project thoroughly and completely investigated; that he should wish to receive every possible information which might either tend to satisfy his mind as to the expediency of repealing the internal taxes only, to the total exclusion of all others, or enable him to propose some other project, equally beneficial perhaps to the public at large, and which might at the same time accord better with the immediate interests of his constituents?

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His constituents, he was proud to say it, had ever contributed with alacrity and cheerfulness to the wants and exigencies of the Union. They were prepared and willing, he was confident, to do so still; and he made not the least doubt but that they would readily subscribe to the exclusive repeal of the internal taxes, and submit, without a murmur, to the continuation of all the other taxes, however burdensome to themselves, provided they are convinced and well satisfied that this measure was fairly and impartially adopted for the welfare of the whole, and not for the benefit of the one at the expense of the other division of the country. It was for this purpose, therefore, that he wished the present motion to be adopted, and that he had desired the attention of the Committee of Ways and Means to be directed, particularly, to those articles of importation and of general use and necessity, such as salt, sugar, coffee, common teas, &c. He was desirous that these and similar items should be compared with the carriage tax, the tax on licenses to retail spirituous liquors, and various other similar items of the internal taxes, and that the House might be furnished with such information with respect to both, as might enable him to judge, whether there might not be a partial repeal as well of some of the external as internal taxes, and not a total and exclusive reduction of the latter, as was contemplated; whilst all the former, however grievous and inconvenient, were to be retained. Did he then ask any thing which was unreasonable or improper? Could any possible inconvenience accrue from allowing him to obtain the information he desired? If not, why refuse to indulge him in what he deemed useful, and what (at the worst) could only be regarded by gentlemen themselves as superfluous information? Was

it fair; was it becoming; did it comport with that civility and politeness which was due from the one to the other, by citizens of a common country, assembled together for the express purpose of consulting upon their common interests, to treat thus cavalierly what must at least be allowed to be a respectable minority?

With respect to the two only reasons which had ever been offered in favor of the exclusive repeal of the internal tax, viz: the expense and number of officers required to collect it, was it not the immediate and precise object of the resolution under debate to inquire whether it was not possible to devise some means by which these inconveniences might be obviated, or at least greatly lessened? And what objection could there be to the inquiry? Were gentlemen perfectly and entirely convinced that nothing of the kind could be done, or were they apprehensive that the thing was in itself so feasible, that an inquiry of this kind would throw a stumbling-block in the way of the project already determined on, which although he would freely acknowledge, that as an abstract proposition it was expedient as much as possible, and to collect your taxes at as small an expense, and by means of as few agents as conveniently could be done, yet there was another still more important maxim which ought never to be lost sight of: this was, that the burdens of the Government, as well as the advantages which flowed from it, should be fairly, equally, impartially, and equitably distributed among every description of the citizens, in whatever part of the country they resided. If, therefore, it did happen, that a few more officers and a somewhat greater percentage were required to collect the taxes in one than in another part of the country, this alone would most certainly and indubitably not be a sufficient reason to do away all the taxes in the one, and throw the whole burden of the Government on the inhabitants of the other.

Mr. RUTLEDGE confessed himself much puzzled by the new forms of proceeding this day adopted. Ever since he had had the honor of a seat in Congress, it had been invariably the practice, when measures were proposed not agreeable to the majority, for them to offer their objections to them. This had ever been the practice, and the experience of its convenience offered strong reasons for its continuance. When the majority stated their objections to any measure, the minority in sustaining it answered them fully; thus, both sides acted understandingly, and when the proceedings of the National Legislature went out to the people, they were at the same time informed of the reasons under which their Representatives had legislated. This had not only been the usage in Congress, but the form of proceeding in all representative bodies with whose history we are acquainted. Even in the British House of Commons, which gentlemen had often and emphatically styled a mockery of representation, so great is the respect paid to public opinion, that the majority deem it their duty to assign in debate the reasons of their conduct. Although the Minister in England has quite as much confidence in the strength of his majority as gentlemen here can have in theirs, yet, in feeling power, he does not forget right, and his regard for public opinion is so great, that he never secures his measures by a silent vote. In these days of innovation, we, it seems, are to pursue a different course. When the resolution offered this morning by his honorable friend from New York (Mr. MORRIS) was taken into consideration, not a voice was raised against it. This profound silence made us expect a unanimous vote; but, in consequence, he supposed, of some outdoor arrangements, it was rejected by this silent majority. He had seen many deliberative assemblies, but never before witnessed such a procedure. He would not say whether this was respectful towards the minority, who, we have been told from high authority, have their equal rights—he would not say whether it was dignified as it regarded the majority, but, without pretending to any spirit of prophecy, he would venture to say it could not be deemed politic or wise by the people of this country.

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When the doors of Congress were open, and persons admitted to take the debates, the people expected to be fully informed of the views and motives which governed the votes of their Representatives. But it seems our constituents are not to be treated with this heretofore common civility. In proposing measures we are obliged to guess at what gentlemen feel against them, (for they say nothing,) and to defend them, without knowing in what they are objectionable to those who govern in this House. This kind of governing is but ill calculated to produce harmony, to restore social intercourse, and to heal the wounds inflicted on society by the spirit of party.

The question was taken, and it passed in the negative—yeas 37, nays 57.

### ***Duties on Imports.***

Mr. RUTLEDGE called up for consideration the resolution which he moved on Friday, on which the previous question was then taken, viz:

"*Resolved*, That the Committee of Ways and Means be instructed particularly to inquire into the expediency of reducing the duties on brown sugar, coffee, and bohea tea."

Mr. GRISWOLD hoped the resolution would be decided upon.

Mr. RUTLEDGE hoped the reference would obtain. These articles paid the highest rate of duties and were of the first necessity. In looking over the rates of duties on imports, he saw many articles that were taxed enormously high. Those in the resolution were of the first necessity, the duty high, and laid when they were at war prices; while the people received war prices for their produce, they could with convenience pay for these articles, though high. The object of the resolution was merely to inquire, and he did not see how it could interfere with any object gentlemen have in view.

Mr. DANA.—I beg liberty to tender the homage of my profound respects, for the dignified situation in which gentlemen have now placed themselves, and congratulate them on their silence. There

is something peculiarly impressive in this mode of opposing every thing that is urged. It is seldom that gentlemen have exhibited such a remarkable appearance of a philosophical assembly.

"That dumb Legislature will immortalize your name"—is said to have been the language of a certain distinguished General to a certain nominal Abbé, who has been represented as having pigeon-holes full of constitutions of his own making. During the memorable night at St. Cloud, when the French Council of Ancients, and Council of Five Hundred, were adjourned—to meet no more—it may be recollected, the powers of executive government were provisionally committed to three persons, styled Consuls, and two of them were the General and the Abbé. From each of the Councils, twenty-five members were selected, to compose a commission, and assist the provisional Consuls in preparing a constitution for France. Of the numerous projects of constitutions presented by the Abbé, it is said no part was finally adopted except the plan of a dumb Legislature. This, the General instantly seized with apparent enthusiasm, exclaiming to the Abbé, "that dumb Legislature will immortalize your name!" And it was determined to have a *corps legislatif* that should vote, but not debate.

It was scarcely to be expected that any thing like this would soon take place in our own country. But it is the prerogative of great geniuses, when in similar circumstances, to arrive at the same great results, although with some difference in the process. Nor can I forbear offering my tribute of admiration, for the genius who has projected a mode of proceeding among us, that so nearly rivals the plan adopted in France. I know not to whom is due the honor of this luminous discovery. After ascribing to him, however, all merited glory, permit me to examine the force of the argument relied on by gentlemen in opposition to the proposed resolution.

Their argument is silence. I hope to be excused if I do not discuss this subject in the most satisfactory manner; as silence is a new species of logic, about which no directions have been found in any treatise on logic that I have ever seen. It will be my endeavor to reply to gentlemen by examining some points which may be considered as involved in their dumb arguments.

One of these points is—that certain members of this House have pledged themselves to their constituents, for repealing all the internal taxes. They may have declared their opinions to this effect, before the election; and, being chosen under such circumstances, may now deem themselves bound in honor not to vary. The terms assented to between their constituents and themselves may, therefore, be viewed by them as the particular rule of their own conduct. But is this House to be regarded in the same light with the English House of Commons, during the early period of their history, when the knights of shires, and the representatives of cities and boroughs, were instructed on what terms they should bargain with the Crown for special privileges, and were limited to the price agreed on by their constituents? The situation of gentlemen who have thus pledged themselves to vote for repealing the internal taxes, must be irksome, indeed, if on mature consideration they should believe it more proper and more beneficial for the country to have other taxes reduced. Those who have entered into a stipulation of this sort, so as to feel it as a point of honor, are so peculiarly circumstanced that they might think it too assuming in me, were I so much as to express a desire that they would vote for reducing some of the duties on imports, instead of repealing all the internal taxes. It is to be hoped, the number of members who have pledged themselves in this manner, does not exceed twenty-five or thirty.

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Another point involved in this argument of silence is, that other gentlemen may have pledged themselves to these, and given them a promise of support on this subject. It must be acknowledged that this was more than was required on account of their seat in this House. If any gentlemen have absolutely so pledged themselves to their constituents, it must indeed be difficult to convince them. On this point, their minds must be so differently constituted from mine, that there does not seem to be any common principle between us that can be assumed as the basis of argumentation.

Another point is, the Executive has recommended a repeal of all the internal taxes, and not any reduction of the impost. And will gentlemen act upon this as a sufficient reason for their conduct? Is it now to become a principle, that the Executive is to deliberate, and the Legislature to act, and that no measure is to be adopted unless proposed by the Executive? Would it not be better for the country to abolish this House, and to avoid useless expense, if it is to be nothing more than one of the ancient Parliaments of France, employed to register the edicts of a master?

The silence of the gentlemen may also be considered as having relation to their great desire for the harmony of social intercourse. To prevent its being disturbed in the House by debating, they may have come to a determination that all the great questions shall be settled by gentlemen of a certain description, when met in nocturnal conclave, and be only voted upon in this place. If such be the fact, it seems but reasonable that any of the members of this House should be admitted in meetings of the conclave, as delegates from the territorial districts are admitted into Congress, with a right to debate, although not to vote. If, however, this is thought too much, gentlemen should at least have galleries provided, so that other members of the Legislature might be admitted as spectators, and have the opportunity of knowing the reasons for public measures.

The question was called for, when Mr. EUSTIS begged the Speaker would state it, as, in listening to the arguments of the gentleman from Connecticut, he had forgotten it.

Mr. RUTLEDGE said he was much pleased by the question of the honorable gentleman from Massachusetts. When gentlemen ask, What is the question? it is to be hoped that they will respect its merits; but, from the scene this day acted, he had learned that the only inquiry with gentlemen would be, from what side does this come?

The question was then taken by yeas and nays, and lost—yeas 35, nays 58.

**TUESDAY, January 26.**

***Territorial Government for the District of Columbia.***

Mr. SPRIGG reported a bill for the government of the Territory of Columbia.

[The bill establishes a Legislature, chosen by the taxable citizens of the United States one year resident in the Territory, composed of a House of Representatives, to consist of twenty-five members, seven whereof to be chosen by the district of Rock Creek, seven from the part west of Rock Creek, and eleven by the county of Alexandria. The Governor to be appointed by the President of the United States. The Territory to pay the Legislature, and the United States the Governor. The judges to hold their offices during life, unless removed by the President on the application of two successive Legislatures.]

Referred to the Committee of the whole House on Tuesday next.

A memorial and remonstrances of sundry inhabitants of the county and town of Alexandria, in the District of Columbia, was presented to the House and read, praying that Congress will not agree to any plan, or pass any bill respecting the government of the said District, which shall, by the establishment of a subordinate Legislative or subordinate Executive, or otherwise, tend to unite under its power, the two parts of the district, as separated by the river Potomac.—Referred to the Committee of the whole House last appointed.

**THURSDAY, January 28.**

***Lieutenant Sterret, his Officers and Crew.***

The House resolved itself into a Committee of the Whole on the report of a select committee of the nineteenth instant, on the resolutions of the Senate, in the form of joint resolutions of the two Houses, "in respect to Lieutenant Sterret, the officers, and crew of the United States' schooner Enterprise;" to which Committee of the whole House were also referred the said resolutions of the Senate; and, after some time spent therein, the SPEAKER resumed the chair, and Mr. Davis reported that the committee had had the said report and resolutions under consideration, and directed him to repeat to the House their disagreement to the said resolutions of the Senate, and their agreement to two resolutions contained in the report of the select committee thereupon, in the form of joint resolutions of the two Houses; which he delivered in at the Clerk's table. [Pg 593]

The House then proceeded to consider the said report and resolutions: Whereupon, the resolutions of the Senate, to which the Committee of the whole House reported their disagreement, being twice read at the Clerk's table, in the words following, to wit:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as a testimony of the high sense they entertain of the nautical skill and gallant conduct of Lieutenant Andrew Sterret, commander of the United States' schooner Enterprise, manifested in an engagement with, and in the capture of, a Tripolitan corsair, of superior force, in the Mediterranean Sea, fitted out by the Bey of that Regency to harass the trade, capture the vessels, and enslave the citizens, of these States, the President of the United States be requested to present Lieutenant Sterret with a gold medal, with such suitable devices thereon, as he shall deem proper, and emblematic of that heroic action, and the mercy extended to a barbarous enemy, who three times struck his colors twice, and recommenced hostilities: an act of humanity, however unmerited, highly honorable to the American flag and nation; and that the President of the United States be also requested to present to each of the Lieutenants, Porter and Lawson, of the Navy, and Lieutenant Lane of the Marines, who were serving on board the Enterprise in the engagement, and contributed, by their gallant conduct, to the success of the day, a sword, with such suitable devices as the President may deem fit.*

*"Be it further resolved, In consideration of the intrepid behavior of the crew of the Enterprise, under the orders of their gallant commander, and their receiving no prize money, the corsair being dismantled and released after her capture, that one month's pay, over and above the usual allowance, be paid to all the other officers, sailors, and marines, who were actually on board and engaged in that action; for the expenditure of which charge Congress will make the necessary appropriation."*

The question was taken that the House do concur with the Committee of the whole House in their disagreement to the same, and resolved in the affirmative.

The resolutions contained in the report of the select committee, to which the Committee of the whole House reported their agreement, being twice read, in the words following, to wit:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That they entertain a high sense of the gallant conduct of Lieutenant Sterret, and the other officers, seamen, and marines, on board the schooner Enterprise, in the capture of a Tripolitan corsair, of fourteen guns and eighty men.*

*"Resolved, That the President of the United States be requested to present to*

Lieutenant Sterret a sword, commemorative of the aforesaid heroic action; and that one month's extra pay be allowed to all the other officers, seamen, and marines, who were on board the Enterprise when the aforesaid action took place."

The question was taken that the House do concur with the Committee of the whole House in their agreement to the same, and resolved in the affirmative.

*Ordered*, That the said resolutions be engrossed, and read the third time to-morrow.

## **MONDAY, February 8.**

### ***Imprisonment for Debt.***

Mr. SMILIE called up his resolution that a committee be appointed to revise the laws respecting imprisonment for debts due the United States. His objects, he said, were two; to secure the debtor's property, and to inflict some penalty or provide some remedy instead of imprisonment for life.

Mr. RUTLEDGE was opposed to imprisonment for life, where the debtor gave up his whole property, and was unable to pay all. He had known, in South Carolina, revenue officers imprisoned for debts due the United States, who had been many years confined; men of good character, men of honesty, but who, through ignorance of transacting certain business, or their misfortunes, were unable to pay. He knew an individual of that State who had applied to that House for relief; his petition was referred to the Secretary of the Treasury; the Secretary felt a delicacy in interfering in the case; the petition was not granted; and the person had now been in jail five years, though his inability to pay did not arise from having wasted the public money, or from aught but misfortune; for he was acknowledged to be a man of good character. He was averse to such cruelty. Hence the necessity of making some provision that the innocent, when distinctions can, as in most instances, be made, may not be subjected to cruel punishments, that were of no benefit to the United States. Why send him to jail? Why lock him up there? Why prevent his being able to support his family?

Mr. SMILIE.—It is the case that when you exceed in making your laws what is reasonable, those laws, as the present concerning debtors to the United States, will not be executed. The present law cannot be put in execution. He wished some sufficient penalty. This was not the proper stage to give his sentiments; were it, he should say, he thought the defaulter ought to give up the property, and perhaps be imprisoned a period. But the Legislature are not the proper judges, and ought not to interfere; the Legislative and Judicial Departments should be kept separate. We want some uniform law, operating on all according to their demerit.

The subject was postponed till to-morrow.

## **FRIDAY, February 12.**

### ***State Balances.***

Mr. THOMAS called up his motion respecting State Balances, which is as follows:

*"Resolved*, That a committee be appointed to inquire into the expediency of extinguishing the claims of the United States for certain balances, which, by the Commissioners appointed to settle the accounts between the United States and the individual States, were reported to be due from several of the States to the United States, and that the said committee have leave to report by bill or otherwise."

Mr. BAYARD hoped the resolution would prevail. The debtor States, not satisfied with the settlement made by the Board of Commissioners, had asked for information respecting the grounds on which it had been made. The information had been imperiously refused. In his opinion it was but right, if the debtor States did not dispute the validity of the debts due to the creditor States, that they should agree to expunge the claims against the debtor States. Indeed, he had been assured that the commission was not instituted with a view of sustaining any charges against the debtor States, but for ascertaining the amount due to the creditor States, and funding them; and he believed it had been so understood at the time. This was an affair not determinable by the ordinary rules applied to individual cases. Many of the States, not expecting a settlement, had kept no accounts or vouchers; and however great the supplies they contributed under such circumstances, they received no credits for them; while those States which had been most careful in the preservation of vouchers, shared a different and a better fate.

Mr. B. believed it was the true policy of the creditor States to agree to the extinguishment of these balances. He believed they never could be paid, because no State allowed them to be due. They would not, therefore, be paid voluntarily; and he knew of no force in the United States to compel payment. Why, then, keep up a source of irritation, which could do no possible good, and which could only tend to repel some States from that constitution, which we all ought to endeavor to make the object of general affection?

Mr. SOUTHARD said, he had yet heard no reason that convinced him that the resolution offered was just or proper. It would be recollected that this contract was made under the confederation. In the establishment of our independence, great and various exertions had been made. In the contributions made, great inequalities took place, which were unavoidable. Generally, where the

war existed, the States became creditor States. It was just that those States which had contributed more than their share should be repaid, and that those who had paid less should make up the deficiency. If the debtor States were not to pay their balances, why settle the accounts? To relinquish the payment would be, in his opinion, not only unjust but unconstitutional. The constitution says, "All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution as under the Confederation;" and the present Government had recognized those debts as just. The gentleman from Delaware says, the settlement is not just. But this was barely the suggestion of his own mind. To sustain it, he ought to have shown its defects; but this he had not done.

Mr. MITCHILL was in favor of the resolution, as he believed a refusal to adopt it would be attended with unpleasant sensations. He judged so from an historical review of the business. The several States had associated together for their common defence, and, in the eye of equity, whatever that defence required, should constitute a common charge. The accounts of expenses thus incurred were not settled till the new Government was established. That Government fixed the mode of settlement; it appointed a board of referees, to report the debts and credits of the respective States. In this report, it was the fortune of certain States, notwithstanding the greatness of their contributions, to be reported debtor States. These States became debtors from the independent spirit with which they asserted their sovereign rights. Not relying on the general contributions, they furnished great supplies without making any charge to the Union; by exerting all their strength, they paid as they went, and preserved no vouchers of what they paid. This, he averred, was the case as to the State which he had the honor in part to represent; a State as willing as able to contribute, and which did contribute to a great extent; but which had neglected to preserve her vouchers, the preservation of which would have made her a creditor State. He believed, therefore, that in equity, the States were not bound to pay these balances. But to this it is replied, the award is final. He would not agree to that; he denied it. Besides, there was a want of coercive power in the United States to enforce those demands. From this consideration alone, we ought to proceed with lenity, and endeavor to make the settlement a peaceable one. As in other circumstances, we ought to make a virtue of necessity.

Mr. S. SMITH said, he did not rise to take any part in the debate, but in order to bring the subject directly before the committee. To do which, he moved so to amend the resolution as to make it read, "Resolved, That it is expedient to extinguish the claims," &c.

Mr. LOWNDES hoped the amendment would not be agreed to. He did not see the expediency of volunteering a relinquishment of the claims established against several of the States. The amendment was calculated to take the committee by surprise. The original resolution went merely to consider the expediency of a relinquishment; the amendment involved the principle itself.

Mr. HILL was desirous the amendment should not be made, not from any indisposition himself to agree to it, but from a regard to the sentiments of other gentlemen. Even if it was ascertained that these debts had arisen on a just consideration, yet, in his opinion, they ought to be extinguished, from the principle that, in our Government, whatever hazarded the harmony of the Union, ought to be avoided. Precedents were not wanting in which sacrifices were made to this principle. He alluded to the quieting the claims under Connecticut rights. But, whatever might be the general ideas on this subject elsewhere, he knew not a man in North Carolina, who did not believe the adjustment iniquitous. To show the committee how the citizens of that State felt, he would state a case that had occurred before the Board of Commissioners. Two claims had been made, both for the same amount and the same description of supplies, one on one side and one on the other side, of Pedee River; one in North, and the other in South Carolina; and, in one case, seven shillings had been allowed, and in the other, only sixpence for the bushel of wheat. The business generally was entitled to the attention of Congress. It had, in fact, already been attended to at different times. New York had extinguished eight hundred thousand dollars of her balance under certain provisions applied to her case.

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Mr. BACON said, if the object of the motion was to go into a new liquidation of the old accounts between the United States and the several States, it would not only take up every day of the present session, but the work would be left unfinished for our successors. These debts had been incurred in a common cause, in which each State was equally interested, and towards which each State was bound equally to contribute. When Congress made requisitions on this principle, they were accompanied by a promise that there should be a final liquidation. This liquidation was made; the settlement was complete. But this settlement is now objected to, and what is to be done? Why we must annul the contract. This might satisfy some of the States, but he was sure it would dissatisfy others. He saw, therefore, no end to be answered by the motion. We must either set aside all that had been done, and begin *de novo*, to which this body is incompetent, or rest satisfied with what is already done.

Mr. R. WILLIAMS observed, that since he had held a seat in the House, this subject had been almost every session called up. The more he had heard it discussed, the more he became convinced of the necessity of getting it out of the way. He found that whenever it was brought up, all was imagination. One State contended that it had contributed largely, and another, that its exertions had not been surpassed.

We are asked, why relinquish these balances before we are solicited by the States? He would reply that North Carolina never had recognized the debt, and, in his opinion, never would apply for its extinguishment. He was in favor of the amendment, because the principle ought to be decided here, and not in a select committee. What, indeed, could such committee report? There

were no vouchers or books whereon the settlement had been made to be got at. All they could do, then, would be to report the balances alleged to be due, which any member could at any time learn.

It seemed almost useless to go into arguments to show the injustice of the claim, and of consequence, the justice of the resolution. It had been justly said, that those States which had contributed the most, had, by the report of the Commissioners, the most to pay; and this was peculiarly so with the State of North Carolina.

Mr. W. had forbore to dwell on the injustice of these demands. But were he to enter on that branch of the discussion, he should say that the very act of destroying all the vouchers was of itself sufficient to justify any suspicion. He should say, that for what, in some States, there had been an allowance of one hundred pounds, North Carolina had not been allowed twenty shillings. Could, then, gentlemen talk of moral obligation, and say that this was a just debt?

Mr. T. MORRIS said, it was contended that the accounts should be opened anew and re-examined. The fears, therefore, of the gentleman from Massachusetts, were entirely visionary. The resolution was a simple one. It proposes to inquire into the expediency of doing away these debts. The amendment goes to determine the principle here. He thought it proper the principle should be settled here. But gentlemen say they want information. If so, after the amendment is agreed to, they may move for a postponement. If the amendment were carried, he would himself move a postponement.

It had been said that New York had had eight hundred thousand dollars of her debt remitted by the United States. But how did the case really stand? New York had availed herself of the act of Congress, not because she acknowledged the debt to be just, but because she preferred doing something to remaining in the situation towards the United States in which she stood. It was strange, then, to hear gentlemen say that New York had been favored. What was the fact? North Carolina, according to the gentleman, had not, and would not, pay one cent; and New York had discharged a greater sum than was due by all the other debtor States, with the exception of Delaware. She was, therefore, instead of being favored, placed in a worse situation than any other State. It was from the existence of this state of things that he wished a final decision to be made this session. New York having agreed to make certain payments to the United States, it was important to her to know whether the United States meant to enforce payment by the other States. Her situation would be truly unfortunate, if after agreeing to pay, the United States suffered her claims against the other States to sleep. She would not only have to pay her quota of the debts, but would see no prospect of deriving her share of benefit from the payments of the other debtor States.

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Mr. MACON said the subject was a very old one, which had occupied much time every session for many years, and he thought it would be as well to try the question now as at any other time. No information of a select committee could throw any new light upon it.

There was a fact which ought to have great weight with the committee. One of the Commissioners who made the settlement, who was a member of this House, had, after the settlement, proposed a resolution to extinguish the balances of the debtor States; and he had stated, as a reason for this measure, that the principle adopted by the board had operated very harshly upon particular States. Mr. M. had it from authority not to be questioned, that in the settlement by the Commissioners, teams, with the usual number of horses, had not produced twenty shillings.

This subject had hung over our heads for eight years, and no scheme was yet devised for collecting the balances. How could they be collected? Congress had, it is true, authorized expenditures by the States in the erection of fortifications; but this very act was a tacit confession of the impracticability of getting the money into the public Treasury. As to a settlement with North Carolina, it was involved in great difficulty. In the act of cession of lands by that State to the United States, it was provided that the territory ceded should be pledged to pay a proportional share of the balance due the United States. How could that share be estimated?

Mr. M. regretted that this subject had been brought up. He should not himself have been for bringing it up, for he thought the claims of the United States not worth a rush. The truth was, the States had all exerted themselves in one great and common cause; they had done their best; they had acted with great glory. As to the State which he represented, he would ask if the first blood that had been spilled after that shed at Boston was not in North Carolina? and that was the blood of brother against brother. He desired not, however, to make comparisons, which were always unpleasant, but to show that North Carolina had no reason to shrink from an inquiry which would demonstrate that she had fully contributed her share in the common cause, without meaning to assert that she had done more than other States. Let, then, Congress decide at once, and abandon the claims altogether, or devise some plan for collecting them, that we may know how we stand.

Mr. DANA said, I hope the amendment will not be agreed to. However gentlemen may be possessed of a wholesale intellect, that enables them to decide on interesting questions without a moment's reflection, I confess I am not blessed with so happy an intuition. I do not know that I have ever been called upon to form an opinion on this subject. As to a reference of it to a committee, I think their investigation may be useful, and after we get that, we may take time to decide. But now the plan is changed, and we are called upon to decide at once the principle. This mode of transacting business may be called an economy of time. You may give it the name, but it is not the substance. For my part, I desire to proceed according to our old plan, and go through the slow process of investigation. This is my way, and gentlemen may rest assured that this mode

of hurrying business is not the way to save time, but to lose it.

Mr. BAYARD declared himself in favor of the amendment, and he could not think, notwithstanding the remarks of his honorable friend from Connecticut, that any gentleman in the House was unprepared to vote upon it. The subject had been frequently discussed, and he believed that the House was then as well prepared for a decision as they would be for a century to come. It involved but a single principle; and, as to information, he could scarcely tell what information was wanted. He felt much of the indifference of the gentleman from North Carolina, (Mr. MACON.) He was sure the United States had neither the right, nor the power to recover these balances; and he repeated it as his opinion, that it had not been the original intention that the debtor States should pay them. Will gentlemen recollect that the commission was instituted under the old Confederation. Had Congress, then, a right to do any thing to bind the sovereignties of the independent States? All they could do was to pass resolutions making requisitions, which the States might or might not comply with. They could appoint Commissioners to settle the accounts, but could they impose the debts upon the States? No, they could not. It, therefore, never could have been contemplated that they would establish those debts. The only effect that could have been contemplated, was, that the creditor States might rely that, on a settlement, Congress would assume their balances.

On the question being put, the amendment was lost—yeas 41, nays 46.

When the original resolution for referring to a select committee the consideration of the expediency of extinguishing the balances was carried.

*Ordered*, That Mr. THOMAS, Mr. BAYARD, Mr. DANA, Mr. HILL, and Mr. BUTLER, be appointed a committee, pursuant to the said resolution.

And the House adjourned.

## TUESDAY, February 16.

### *Judiciary System.*

The House then went into Committee of the Whole on the Judiciary bill from the Senate.<sup>[66]</sup>

Mr. HENDERSON.—I should not rise to offer my opinion on the great question before the committee, were I not placed in a situation different from that in which I have been since I have had the honor of a seat in this House. The Legislature of the State of North Carolina, one of whose representatives I am on this floor, have seen proper to instruct their Senators and to recommend to their Representatives in Congress, to use their exertions to procure a repeal of the law passed the last session of Congress, for the more convenient organization of the Courts of the United States, and the bill on your table has for its object the repeal of this law, and as I shall probably vote against its passage, a decent respect for the opinions of those who have framed and sent forward those resolutions, demands that I should give the reasons which influence my conduct.

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The people of America have obtained and established that the powers of Government shall be vested in three great departments; the Legislative, the Executive, and the Judicial. They have said that there shall be a House of Representatives, the members of which shall be chosen by the people of the several States every second year. Though this House is composed of members chosen by the people immediately; though they can have no other interest than the great community from which they were sent; though they must return to the common mass in the short period of two years; yet enlightened America did not see proper to intrust the power of making laws to this body alone; they knew that the history of man, and the experience of ages, bore testimony against the safety of committing this high power to any one Assembly not checked by any other body. They have therefore erected another branch of the Legislature, called the Senate, the members of which are not to be elected by the people immediately, but by the sovereignties of the several States; they are to be chosen for six years, and not for two; and the qualifications requisite to entitle those to a seat is different from that of a member of this House. To these bodies are given the power of initiating all laws; but after a bill has passed both of these Houses, before it becomes of binding obligation on the nation, it must be approved of by the President; it is a dead letter until life is given by the Executive. The President is elected not by the people, not by the Legislatures of the several States, not by either House of Congress, not by Electors chosen by the people. He is to hold his office during four years. This is the second great department of the Government. It will be easily discovered from this cursory view of our constitution, the caution and jealousy with which the people have conferred the power of making laws, of commanding what is right, and prohibiting what is wrong. But, sir, after this law was made, after its authoritative mandate was acknowledged by the nation, it became necessary to establish some tribunal to judge of the extent and obligation of this law. The people did not see proper to intrust this power of judging of the meaning of their laws, either to the Legislative or to the Executive, because they participated in the making of these laws; and experience had shown that it is essential for the preservation of liberty that the Judicial and Legislative authorities should be kept separate and distinct. They therefore enacted a third department, called the Judicial, and said that "the Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. The judges both of the Supreme and inferior courts shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."



It is admitted, I understand, by all parties, by every description of persons, that these words, "shall hold their offices during good behavior," are intended as a limitation of power. The question is, what power is thus to be limited and checked? I answer, that all and every power which would have had the authority of impairing the tenure by which the judges hold their offices, (if these words were not inserted,) is checked and limited by these words; whether that power should be found to reside in Congress, or in the Executive. These words are broad and extensive in their signification, and can only be satisfied by being construed to control the Legislative as well as the Executive power. But gentlemen contend that they must be confined to limiting the power of the President. I ask gentlemen, what is there in the constitution to prove their signification to this end alone? When you erect a court and fill it with a judge, and tell him in plain, simple language, that he shall hold his office during good behavior, or as long as he shall behave well; what, I beseech you, sir, will any man, whose mind is not bewildered in the mazes of modern metaphysics, infer from the declaration? Certainly that the office will not be taken from him until he misbehaves; nor that he will be taken from the office during his good behavior. Under this impression he enters upon his duty, performing it with the most perfect satisfaction to all persons who have business before him; and the Legislature, without whispering a complaint, abolishes the office and thereby turns out the judge. The judge is told this is no violation of the compact; although you have behaved well, although we have promised that as long as you did behave well you should continue in office, yet, there is now no further necessity for your services, and you may retire. These words, "during good behavior," are intended to prevent the President from dismissing you from office, and not the Legislature from destroying your office. Do you suppose, sir, that there is a man of common understanding in the nation, whose mind is not alive to the influence of party spirit, that would yield his assent to this reasoning? I hope and believe there is not. But, sir, how is it proved that the President would have had the power of removing the judges from their office, if these words, "during good behavior," had not been inserted in the constitution? Are there any words in that instrument which give the President expressly the power of removing any officer at pleasure? If there are, I call upon gentlemen to point them out; it does not result from the fashionable axiom, that the power which can create can destroy. The President can nominate, but he can appoint to office only by the advice and consent of the Senate. Therefore, it would follow, if the power of displacing results from that of creating, that the Senate should participate in displacing as well as creating officers. But however this may be, it is certainly a mere constructive power which he has exercised, because the Legislature have, from motives of expediency, acknowledged that he had it. If the constitution does not necessarily give the President the right of removing officers at pleasure, and if that right depend upon Legislative acts or constructions, where would have been the necessity for inserting these emphatic words as a check and limitation of Executive power, where without them the President has no such power? You are taking great pains to control a power which does not exist. The persons who framed our constitution knew that a power of removal in ordinary cases must exist somewhere. They took care, therefore, that in whatever hands it might fall, the language of the constitution respecting the tenure of the office of a judge should be co-extensive with the whole power of removal, whether it should reside in one or in more hands.

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But it has been said that the powers of each Congress are equal, and that a subsequent Legislature can repeal the acts of a former; and as this law was passed by the last Congress, we have the same power to repeal it which they had to enact it. This objection is more plausible than solid. It is not contended by us that legislatures who are not limited in their powers have not the same authority. The question is not what omnipotent Assemblies can do, but what *we* can do under a constitution defining and limiting with accuracy the extent and boundaries of our authority. The very section in the constitution (sec. third, art. first) which I have read, is a proof against the power of every Congress to repeal the acts of their predecessors. In the latter part of the eighth section it is proposed that the judges shall receive for their services a compensation which shall not be diminished during their continuance in office; and yet the salary was ascertained and fixed by a former Congress. The same observations may be made with respect to compensation for the President, which can neither be increased nor diminished during the period for which he shall have been elected. It is not competent for this Congress to vary the compensation to him which has been fixed by a prior Legislature. It is clearly seen, upon a little investigation, that the position which gentlemen take is too extensive, and leads immediately to a destruction of the constitution. It does away all check, and makes the Legislature omnipotent. It has been asked, that if a corrupt and unprincipled Congress should make an army of judges, have not a subsequent Congress the right of repealing the law establishing this monstrous judicial system? I answer that they have not; the same mode of reasoning which attempts to prove this right from an abuse of power will also prove that you may lessen the compensation of your judges. May not equal oppression be imposed upon the people by giving your judges exorbitant salaries as by increasing their numbers? May not the same corrupt and unprincipled motive which would lead men to the raising of an army of judges lead them to squander the public money? And may they not, instead of giving their judges two thousand dollars a year, give them two hundred thousand? And yet, sir, if it were to take place, I know of no authority under the constitution to lessen that exorbitant compensation. The Government of our country is predicated upon a reasonable confidence in those who administer our public affairs. They must have the power of acting for the public welfare, and this would never have been given them if the possible abuse of this power were a sufficient reason for withholding it.

Again, sir, the construction which gentlemen on the other side of the House contend for, tends to the concentration of Legislative and Executive powers in the same hands. If Congress, who have the power of making laws, can also displace their judges by repealing that which creates the offices they fill, the irresistible consequence is, that whatever law is passed the judges must carry

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into execution, or they will be turned out of office. It is of little importance to the people of this country whether Congress sit in judgment upon their laws themselves, or whether they sit in judgment upon those who are appointed for that purpose. It amounts to the same despotism; they in fact judge the extent and obligations of their own statutes by having those in their power who are placed on the sacred seat of justice. Whatever the Legislature declares to be law must be obeyed. The constitutional check which the judges were to be on the Legislature is completely done away. They may pass *ex post facto* laws, bills of attainder, suspend the writ of *habeas corpus* in time of peace, and the judge who dares to question their authority is to be hurled from his seat. All the ramparts which the constitution has erected around the liberties of the people, are prostrated at one blow by the passage of this law. The monstrous and unheard of doctrine which has been lately advanced, that the judges have not the right of declaring unconstitutional laws void, will be put into practice by the adoption of this measure. New offences may be created by law. Associations and combinations may be declared treason, and the affrighted and appalled citizen may in vain seek refuge in the independence of your courts. In vain may he hold out the constitution and deny the authority of Congress to pass a law of such undefined signification, and call upon the judges to protect him; he will be told that the opinion of Congress now is, that we have no right to judge of their authority; this will be the consequence of concentrating Judicial and Legislative power in the same hands. It is the very definition of tyranny, and wherever you find it, the people are slaves, whether they call their Government a Monarchy, Republic, or Democracy.

Mr. Chairman, I see, or think I see, in this attempt, that spirit of innovation which has prostrated before it a great part of the old world—every institution which the wisdom and experience of ages had reared up for the benefit of man. A spirit which has rode in the whirlwind and directed the storm, to the destruction of the fairest portion of Europe; which has swept before it every vestige of law, religion, morality, and rational government; which has brought twenty millions of people at the feet of one, and compelled them to seek refuge from their complicated miseries in the calm of despotism. It is against the influence of this tremendous spirit that I wish to raise my voice, and exert my powers, weak and feeble as they are. I fear, sir, on the seventh of December, it made its appearance within these walls, clothed in a gigantic body, impatient for action. I fear it has already begun to exert its all-devouring energy. Have you a judiciary system extending over this immense country, matured by the wisdom of your ablest and best men? It must be destroyed. Have you taxes which have been laid since the commencement of the Government? And is the irritation consequent upon the laying of taxes worn off? Are they paid exclusively by the wealthy and the luxurious part of the community? And are they pledged for the payment of the public debt? They must be abolished. Have you a Mint establishment, which is not only essentially necessary to protect the country against the influx of base foreign metals, but is a splendid attribute of sovereignty? It must be abolished. Have you laws which require foreigners coming to your country to go through a probationary state, by which their habits, their morals, and propensities may be known, before they are admitted to all the rights of native Americans? They must be repealed, and our shores crowded with the outcasts of society, lest oppressed humanity then should find no asylum on this globe!

### **THURSDAY, February 18.**

A message was received from the PRESIDENT OF THE UNITED STATES, transmitting a letter from the Secretary of War on the subject of certain lands in the neighborhood of our military posts, on which it might be expedient for the Legislature to make some provisions. A letter was also received from the Governor of Indiana, on the same subject. The said Message and letter were read, and ordered to lie on the table.

#### ***The Judiciary Bill.***

The House again resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act to repeal certain acts respecting the organization of the Courts of the United States and for other purposes."

Mr. STANLEY.—Mr. Chairman, every measure which is brought under the consideration of a Legislature must first be tested by its expediency. Unhappily, in the present instance, another question arises—its constitutionality. I will endeavor, concisely, to examine the subject on both those points. And, first, as to the expediency of the measure. In order to form a correct estimate between the present Judiciary system of the courts of the United States and that for which it was substituted, it is proper to take a comparative view of both.

Under the former system, there were six judges of the Supreme Court of the United States, who held two sessions of the Supreme Court in each year, at the seat of Government. Those judges also held in each State a circuit court, two terms in each year, in which the judge of the district was associated with the circuit judge. The organization of the district courts having jurisdiction, principally, of matters affecting the revenue and admiralty causes, not being connected with the present question, need not be examined. From the errors of this system resulted, first, a delay of justice. The judges bound to hold courts in succession at remote parts of the continent, were continually travelling; from the variety of accidents to which travellers are subjected in this country, from the condition of roads and overflowing of rivers, it frequently happened that the judges failed in their attempts to get to the courts, or arrived so late that little business was done. Suitors, jurors, and witnesses, were subjected to the trouble and expense of attending courts without the accomplishment of their business; hence resulted a delay of justice. In the

State to which I belong, during the few years existence of the former system, this was the case frequently.

Another great evil resulting from that system was, its tendency to lessen the character and respectability of the Federal bench. Those best acquainted with the profession of the law will most readily admit, that even a life of patient study is unequal to the complete attainment of principles and rules; and that much labor and industry are necessary to preserve that which is gained. Consequently, that extent of legal knowledge, correctness of judgment, and respectability of character, which should designate the persons qualified for this important trust were seldom to be found, but in men far advanced in years. Men possessing these qualifications, not inured to labor, are seldom equal to the fatigue of their duty; or, if at the time of appointment, fast approaching to the infirmities of age, were not to be expected to relinquish the enjoyments of private life for an office, which, however honorable, subjected them to the fatigue of a day laborer. The office, with its incumbrances, was, as it were, offered to the lowest bidder. And men best qualified to honor the bench, were driven from it. True it is, men have been found eminently uniting virtue and talents, who have accepted the office under all its distressing circumstances, but we owe this rather to their patriotism than to the advantages of the situation. Let it also be remembered that, in some instances, gentlemen who would have adorned the seat of justice of any country, were compelled to relinquish their seats; and in others, refused to accept the appointment.

Another error of that system was, that the judges of the Supreme Court, the court in the last resort, before whom the errors of the inferior circuit courts were to be corrected, were the same men who presided in those circuit courts. With great deference for the opinions of gentlemen who prefer that system, I pronounce my opinion, that its errors were radical; that those who justly estimated the importance to our interest and national character, of a speedy and correct administration of justice, ought to have desired a change. The present system has happily obviated these errors. The States are divided into six circuits; in each State is appointed one judge, called a circuit judge; the judges of the States, composing one circuit, ride together into the States of their circuit, and together hold the court. The much smaller distance which those judges have to travel than the circuit judges, under the former system, secure their due attendance; a portion of their time is left them to study and reflection, and the same persons presiding at successive terms, a uniformity of decision is preserved. The six former judges hold the Supreme Court, with original constitutional jurisdiction in matters of the utmost national importance, and appellate jurisdiction, in certain cases, where the sum in dispute is two thousand dollars; they are also the court in which the errors of the circuit court are examined and corrected.

It is objected against the act proposed to be repealed, that a dangerous patronage is created by it for the President. I shall pass over what I consider an inconsistency in this objection coming from gentlemen who profess that implicit confidence is due to the man chosen by the people, who, in his appointments, speaks not less the voice of the people than the voice of God, and examine the weight of the objection. If this apprehended patronage means the power of appointing the Judiciary, that power is given by the constitution, and is the same, whether the power of the Judiciary be vested in six or in sixteen judges. If it fear an undue control over the people in favor of the Executive, through the Judiciary, make the judges as independent as we contend they are and ought to be, and they are placed beyond the necessity of descending to the practice of improper means to preserve Executive favor.

We have been told, sir, that it is necessary the judges should ride into the States to gain a knowledge of the laws by which, in many cases, they are to decide. Until this occasion I have never heard that the laws of a country could only be acquired in the atmosphere of that country where they are in force. Nine-tenths of the decisions in our State courts and Federal courts turn on questions of common law; yet, has it ever been suggested that an American judge was incompetent to decide on common law questions, because he had not studied in England? No, sir, the knowledge in both cases may be acquired in the closet. To these observations permit me to add, that the remonstrances from the bar of Philadelphia, composed of gentlemen no less celebrated for the respectability of their private than of their professional character, who, on this occasion, so interesting to the welfare of their country, have sacrificed their political prejudices, strongly expressing their decided preference of the present system to the former, is, to my mind, conclusive, that it ought to be preferred. I am, therefore, of opinion, that it is inexpedient to pass the present repealing bill; and so long as my opinion is supported by the respectable authority I have just alluded to, and opposed only by the objections which I have noticed, I shall feel satisfied that opinion is correct.

In approaching the second question which I proposed to examine—the constitutionality of the measure—whether I reflect on the magnitude of the question on the one hand, or my inability on the other, I am, indeed, humbled before the undertaking.

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Without examining whether Government, according to the modern opinion, should be founded on the reason and sense of justice of man, it is certain our Government is calculated to guard against his weakness and his wickedness. Our Government has been particularly cautious on this subject; it has left nothing to the hazard of reason or sense of justice; it has carefully delegated powers to three distinct departments, and separated these departments by boundaries plainly marked and formed, each so as not to control, at least to check, the other. The Legislative powers, though vested in men chosen frequently and by the people themselves in one branch, and by the immediate agents of the people in the other, are nevertheless the object of suspicion and caution. Their powers, far from resting on their discretion or sense of expediency, are

expressly and cautiously limited. The Executive conditional veto forms one check on the Legislature; the Judiciary, I shall contend, are a check on both. Here, permit me to say, that from the spirit and the words of our constitution, I infer that the Judiciary are a co-ordinate department with the Executive and Legislative. The framers of our constitution, satisfied that the powers of well-organized Governments ought to be divided into three branches—Legislative, Executive, and Judicial—have nowhere expressly declared there shall be such departments, but, after premising the objects of the Government, proceed to ordain how the Legislature shall be composed; and article two, section two, declares, "The power shall be vested in a President of the United States of America; he shall hold his office during the term of four years," and prescribes the mode of election. Article three, section one, also declares, "The Judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish," and the judges of the supreme and inferior courts shall hold, &c., during good behavior. By comparing these sections of the constitution, it appears the Judiciary and the Executive are expressly created by the constitution, and nothing is left to the discretion of Congress, as to the existence of these departments; they are created by the same words; and if the Legislature claim a right to put down the Judiciary at pleasure, before the happening of that event till which the constitution secures their offices—their misbehavior—they may as well assume the right to remove the President before the happening of that event till which his office is secured, to wit, the expiration of four years. I shall attempt to establish as a first principle, that the Judiciary are a check on the Legislature, and thence to show first, that, by the spirit of our constitution, the Judiciary ought to be independent, beyond the control or influence of either of the other departments of power; and secondly, that, by the words of the constitution, they are so secured.

First, then, that the Judiciary are a check on the Legislature. In the constitution, we find certain powers delegated to Congress; we also find they are prohibited from exercising certain powers; among which are, they shall pass no *ex post facto* law, no bill of attainder, no law respecting religion, &c. Should, unhappily, a Legislature be found who, from weakness or wickedness, or the union of both, should transgress the bounds prescribed, what is the security of the citizen? After all the experience derived from the example of other Governments, after all the deliberation and wisdom of our sages who framed the constitution, are we left, in this important instance, as under the despotism of a monarch, to seek redress through the throes and convulsions of a revolution? No, sir. The Judiciary are our security. The Legislature may enact penalties, and denounce punishments against those who do not yield obedience to their unconstitutional acts; their penalties cannot be exacted, nor punishments inflicted, without the judgment of a court. The judges are to expound the law, and that fundamental, paramount law, the constitution. To this purpose they are sworn to support the constitution. While the Judiciary firmly, independently, and uprightly, discharge their duty and declare the act of the Legislature contrary to the constitution, to be void, the Legislature are checked, and the citizen shielded from oppression and persecution. But, ask gentlemen, whence do the courts derive this power, and the honorable gentleman from Virginia (Mr. THOMPSON) says, we are contending for this common law doctrine, that the courts are a check on the Legislature. If I misunderstood the gentleman, I trust he will correct me. Sir, that gentleman, I am willing to presume, knows, what I assure him no gentleman with whom on this occasion I act, is ignorant of, that this is not a common law doctrine; that in England their courts have no check on the Legislature—their Parliament are emphatically styled omnipotent, and if they violate the few natural rights that remain to the citizens, they have no remedy but in a resort to revolutionary principles; it was the want of this check to the oppressions of their rulers, which has produced civil wars, and driven one monarch from his kingdom, and sent another to the scaffold. This power exists in no other Government, because under no other Government does there exist a Legislature with limited powers; under our Government it is the very essence, the constitution of a court, the oath enjoined on them to support the constitution. The exercise and the admission of this right are not new in America; instances must be in the recollection of every gentleman. I will cite a few most prominent: The honorable member (Mr. THOMPSON) has been pleased to call the attention of the committee to the examples drawn from his State; I beg leave to profit from the same source. In 1787, the Legislature of that State passed an act making new arrangements in the jurisdiction of the courts. The judges, among whom was that venerable gentleman mentioned by the member from that State, whose merits and worth command the sincere homage of my respects, protested against this act, and refused to carry it into effect; the Legislature acquiesced, and the law was repealed.

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Upon the imposition of the carriage tax by Congress, a citizen of Virginia refused to pay the tax, on the ground that it was unconstitutionally laid. He was sued for the penalty in the circuit court of that State, from whence, by writ of error, the suit came before the Supreme Court; in this case the defendant relied solely on the unconstitutionality of the act of Congress, and on this ground was defended by the attorney general of the State of Virginia, and the attorney general of the State of Pennsylvania. At this time, then, it appears that these learned gentlemen, the judges, and the citizens, thought the court competent to relieve in case the law was judged to be unconstitutional. In 1792, Congress passed an act imposing certain duties respecting invalid pensioners, upon the judges of the circuit court. The judges, at the first court after this act, protested against it; their protests were transmitted to the President of the United States—that President, who had presided in the General Convention which framed the constitution, and, therefore, as likely to understand the powers of Congress on the Judiciary as any other man, so far sanctioned their opinions as to transmit them to the next Congress, where the act was reconsidered and repealed. I beg leave, also, to allude to the authority before mentioned by my friend from Pennsylvania, (Mr. HEMPHILL,) which I should think of some weight here. It is the

opinion of a gentleman, venerable for his age, respectable for legal knowledge, and distinguished for what, in the fashionable language of the day, are termed republican principles. I mean the Executive of Pennsylvania; that gentleman, in assigning to the Legislature of his State his reasons for not approving an act they had laid before him, after expressing his doubts of the constitutionality of the act, declares, "he cannot, from a confidence in the legal knowledge, integrity, and fortitude of his former brethren in the Supreme Court, risk his character in a judicial decision on this question, when he does not see any advantage to be derived to his country from a possibility of success." If any words can make more plain the opinion here conveyed, it is that he considers the judges have the power and will exercise it, to declare the act unconstitutional.

To my mind, these considerations are satisfactory, that, from the very constitution of our courts, from the practice and admission of our State courts and State Legislatures, and Federal courts, and Federal Legislature, that the judges of the United States, sitting in court, have the power, and by oath are bound to pronounce, that, an act contrary to the constitution, is void. From the establishment of this proposition, that the judges are the expounders of the constitution, and the laws made under it, and that they are thereby a check on the Legislature, I shall infer that, by the spirit of our constitution, they ought to be independent of the other branches of Government, but particularly so of the Legislature. The concentrating the branches of power either Executive and Legislative, or Legislative and Judiciary, in the same hands, is the very essence of tyranny; in proportion as we advance towards the union of those powers, in the same proportion do we recede from liberty. Are these departments separate, unconnected—if the Legislature by any means procure their will either directly or indirectly, to be substituted for or to overrule judicial judgment? Whether the Legislature expound and adjudge their acts themselves, or submit them to the exposition and judgment of a judiciary subservient to them, is essentially the same. If the Legislature exercise the power of removal from office by the direct means of a vote of removal, or by the indirect means, the legislative legerdemain of a repealing act, is precisely the same thing, the judges are no longer independent, but dependent on the Legislature for their offices, and subject to their control; a consequence entirely repugnant to the spirit of our constitution. I shall attempt to show, that by the words of our constitution, the judges are placed beyond Legislative control. Article three, section one: "The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office." Until the contemplation of the present measure, I incline to believe, it never entered the mind of any man acquainted with this clause of the constitution, that judges should be removed otherwise than by impeachment for misdemeanor. The advocates for this Legislative power contend that the tenure of "good behavior" in this article of the constitution is intended to restrict Executive and not Legislative power. It does not appear probable that an express restriction should be introduced against a power which is nowhere expressly granted; for gentlemen know that the Executive power of removal from office is a power admitted from construction, and not founded on any thing drawn from the constitution. I say this rather, because, by the constitution, the aid of the Senate is necessary to appoint, and *a fortiori* should be necessary to remove. It is important to ascertain what was the intention of the framers of the constitution in introducing the words "good behavior." The most correct source in our power from which this aid may be derived, is the writings and opinions at that day of those who aided in the great work. Among those publications which were written for the purpose of explaining and recommending this constitution, the most celebrated are those pieces over the signature of "Publius," written by the pens of gentlemen of leading influence in the Convention, and whose talents and patriotism are still honored by the nation. In that part of this work which treats of the tenure of the office of judge during "good behavior," I find this strong expression:

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"The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of Government. In a monarchy, it is an excellent barrier to the despotism of the prince. In a republic, it is a no less excellent barrier to the encroachments and oppressions of the representative body."

This, sir, to my mind, is conclusive, that the convention intended this tenure as a restriction no less on Legislative than on Executive power, and that, in this sense of the phrase, the people of America received this part of the constitution. In ascertaining the import of the words "during good behavior," it is certainly important to inquire the end to which they have been used in other similar cases. My colleague (Mr. HENDERSON) has, with much abler talents, shown that, in most of the State constitutions, which existed before our Federal constitution, these words are used to fix the tenure of offices where the Executive have neither express nor constructive power of removal; consequently, they are in those constitutions restrictive of the Legislative power. If, then, the framers of our constitution borrowed this tenure from these State constitutions, it is fair and reasonable to conclude they used them in the sense in which they were previously received. But, says my colleague on the other side of the House, (Mr. ROBERT WILLIAMS,) the judges in England hold their offices by the tenure of "good behavior," and yet are removable on an address from both Houses of Parliament, and he infers that the terms may have been taken from England. To this I will first observe, that no fair argument can be drawn from the existence of this Legislative power there, for the exercise here. The mode of appointment there may render such control over the Executive necessary, which, from the provisions of our constitution, are not wanted here. In England, the King has the sole power of appointment—the people have no previous check. In this country, the Executive appointment is checked by the requisite sanction of the Senate. But is this Legislative power in Great Britain usurped by construction? No, if the

gentleman will read again the statute of 13 William III., he will find that this power of removal is expressly granted by the Crown to Parliament. If, then, one convention had this statute before them, in adopting that part which relates to the tenure of office, and omitting that part which gives the power of removal, it is not to be presumed they intended so important a power should depend on construction. The same gentleman (Mr. ROBERT WILLIAMS) also contended that it could not be presumed the convention intended to restrict the power of the Representatives of the people, the friends of the people. What will the gentleman say of the correctness of his opinion, when I remind him that our powers are all expressly restricted; that the same article which fixes the tenure of "good behavior," expressly and undoubtedly guards against the power of the Representatives of the people, the friends of the people, by securing the salaries of the judges undiminished during their continuance in office.

Mr. GILES said that he felt some degree of apprehension, that, in the course he deemed it necessary to take in the discussion of this question, some observations might fall from him which might not be in strict harmony with the feelings of some gentlemen of the committee. He should regret, however, if a compliance with a sense of duty should produce that effect. He said, therefore, that he wished to apprise gentlemen that he intended to direct his observations as much as possible to the effects and tendencies of measures; and that when he was constrained to speak of the views of gentlemen, it would be with respect to what he conceived to be their opinions in relation to the general interests, and not to private gratifications. He said it was natural that men should differ in the choice of means to produce a given end, and more natural that they should differ in the choice of political means than any other; because the subject presented more complicated and variable objects, out of which to make a choice. Accordingly, a great portion of the human mind has been at all times directed towards monarchy, as the best form of government to enforce obedience and ensure the general happiness; whereas another portion of the human mind has given a preference to the republican form, as best calculated to produce the same end; and there is no reason for applying improper motives to individuals who should give a preference to either of the principles, provided in doing so they follow the honest dictates of their own judgments. It must be obvious to the most common observer, that, from the commencement of the Government of the United States, and perhaps before it, a difference of opinion existed among the citizens, having more or less reference to these two extreme fundamental points, and that it manifested itself in the modification or administration of the Government as soon as it was put in operation. On one side, it was contended, that in the organization of the constitution a due apportionment of authority had not been made among the several departments; that the Legislature was too powerful for the Executive Department; and to create and preserve a proper equipoise, it was necessary to infuse into the Executive Department, by legislation, all artificial powers compatible with the constitution, upon which the most diffusive construction was given; or, in other words, to place in Executive hands all the patronage it was possible to create, for the purpose of protecting the President against the full force of his constitutional responsibility to the people. On the other side, it was contended, that the doctrine of patronage was repugnant to the opinions and feelings of the people; that it was unnecessary, expensive, and oppressive, and that the highest energy the Government could possess, would flow from the confidence of the mass of the people, founded upon their own sense of their common interests. Hence, what is called party in the United States, grew up from a division of opinion respecting these two great characteristic principles. Patronage, or the creation of partial interest for the protection and support of Government, on the one side: on the other side, to effect the same end, a fair responsibility of all representatives to the people; an adherence to the general interests, and a reliance on the confidence of the people at large, resulting from a sense of their common interests. A variety of circumstances existed in the United States at the commencement of the Government, and a great number of favorable incidents continued afterwards to arise, which gave the patronage system the preponderancy, during the first three Presidential terms of election; notwithstanding it was evident, that the system was adopted and pursued in direct hostility to the feelings and opinions of a great portion of the American people. The Government was ushered into operation under a vast excitement of federal fervor, flowing from its recent triumph on the question of adopting the constitution. At that time a considerable debt was afloat in the United States, which had grown out of the Revolutionary war. This debt was of two kinds: the debt proper of the United States, or engagements made by the United States in their federal capacity; the other, the State debts or engagements entered into by the respective States for the support of the common cause.

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The favorers of the patronage system readily availed themselves of these materials for erecting a moneyed interest; gave to it a stability, or qualified perpetuity, and calculated upon its certain support in all their measures of irresponsibility.

This was done not only by funding the debt proper of the United States, but by assuming the payment of the State debts, and funding them also; and it is believed, extending the assumption beyond the actual engagements of the States. Hence the Federal axiom, that a public debt is a public blessing. Shortly after this event, an Indian war sprang up—he would not say by what means—in consequence of which an army was added to the list of patronage. The Algerines commenced a predatory war upon the commerce of the United States, and thence a navy formed a new item of patronage. Taxes became necessary to meet the expenses of this system, and an arrangement of internal taxes, an excise, &c., still swelled the list of patronage. But the circumstance which most favored this system was, the breaking out of a tremendous and unprecedented war in those countries of Europe with which the United States had the most intimate relations. The feelings and sympathies of the people of the United States were so strongly attracted by the tremendous scenes existing there, that they considered their own

internal concerns in a secondary point of view. After a variable conduct had been pursued by the United States in relation to these events, the depredations committed upon commerce, and the excitements produced thereby, enabled the Administration to indulge themselves in a more decisive course, and they at once pushed forward the people to the X, Y, Z, of their political alphabet, before they had well learned and understood the A, B, C, of the principles of the Administration.

Armies and navies were raised, and a variety of other schemes of expense were adopted, which placed the Administration in the embarrassing predicament, either to violate their faith with their public creditors, or to resort to new taxes. The latter alternative was preferred, accompanied with other strong coercive measures to enforce obedience. A land tax was laid for two millions of dollars. This measure awakened the people to a sense of their situation; and shook to the foundation all those federal ramparts which had been planned with so much ingenuity, and erected around the Executive with so much expense and labor. Another circumstance peculiarly favorable to the advocates of Executive patronage was, that during the two first Presidential terms, the Chief Executive Magistrate possessed a greater degree of popularity and the confidence of the people than ever was, or perhaps will ever be again attached to the person occupying that dignified station. The general disquietude which manifested itself in consequence of these enterprising measures, in the year 1800, induced the Federal party to apprehend that they had pushed their principles too far, and they began to entertain doubts of the result of the Presidential election, which was approaching. In this state of things, it was natural for them to look out for some department of the Government in which they could intrench themselves in the event of an unsuccessful issue in the election, and continue to support those favorite principles of irresponsibility which they could never consent to abandon.

The Judiciary Department, of course, presented itself as best fitted for their object, not only because it was already filled with men who had manifested the most indecorous zeal in favor of their principles, but because they held their offices by indefinite tenures, and of course were further removed from any responsibility to the people, than either of the other departments. Accordingly, on the 11th of March, 1800, a bill for the more convenient organization of the courts of the United States, was presented to the House of Representatives. This bill appears to have had for its objects, first, the gradual demolition of the State courts, by increasing the number and extending the jurisdiction of the Federal courts. Second, to afford additional protection to the principles of the then existing Administration by creating a new corps of judges of concurring political opinions. This bill, however, was not passed into a law during that session of Congress, perhaps from an apprehension that it would tend to increase the disquietudes which other measures had before excited, and therefore operate unfavorably to the approaching Presidential election. At the next session, after the result of the late election was ascertained, the bill, after having undergone some considerable alterations, was passed into the law now under discussion. This law, it is now said, is inviolable and irrepealable. It is said, the independence of the judge will be thereby immolated. Yes, sir, this law is now considered as the sanctuary of the principles of the last Administration, and the tenures of the judges as the horns of inviolability within that sanctuary. He said, we are now called upon to rally round the constitution as the ark of our political safety. Gentlemen, discarding all generalizing expressions, and the spirit of the instrument, tie down all construction to the strict letter of the constitution. He said, it gave him great pleasure to meet gentlemen on this ground, and the more so, because he had long been in the habit of hearing very different language from the same gentlemen. He had long been in the habit of hearing the same gentlemen speak of the expressions of "the common defence and the general welfare," as the only valuable part of the constitution; that they were sufficient to obliterate all specifications and limitations of power. That the constitution was a mere nose of wax, yielding to every impression it received. That every "opening wedge" which was driven into it, was highly beneficial in severing asunder the limitations and restrictions of power. That the republicanism it secured, meant any thing or nothing. It gave him, therefore, great pleasure at this time to obey the injunctions of gentlemen in rallying round the constitution as the ark of our political safety, and of interpreting it in by the plain and obvious meaning and letter of the specified powers. But, he said, as if it was always the unfortunate destiny of these gentlemen to be upon extremes, they have now got round to the opposite extreme point of the political compass, and even beyond it. For, he said, they not only tie down all construction to the letter of the instrument, but they tell us that they see, and call upon us also to see written therein, in large capital characters, "the independence of judges;" which, to the extent they carry the meaning of the term, is neither to be found in the letter or spirit of that instrument, or in any other political establishment, he believed, under the sun. Mr. G. said he rejoiced that this subject was now to be discussed; he thought the crisis peculiarly auspicious for the discussion. He said the European world, with which the United States have the most relations, is now tranquillized. The tremendous scenes of blood and revolution which had agitated that portion of the globe, had at length subsided into profound peace; and had left mankind in silent amazement, to retrospect the wonderful events which were passed; and he hoped, with calm deliberation, to improve the lessons they had furnished for the benefit of mankind in time to come. The interests and sympathies, which the people of the United States felt in these events, no longer turn their attention from their internal concerns; arguments of the highest consideration for the safety of the constitution and the liberty of the citizens, no longer receive the short reply, French partisans! Jacobins! Disorganizers! And although the gentleman from North Carolina sees, or thinks he sees, the destructive spirit mount in the whirlwind and direct the storm, let him be consoled by the information, "that all these, our actors, are mere spirits, and are dissolved into thin air." Yes, sir, these magical delusions are now vanished, and have left the American people and their Congress, in their real persons, and original American characters, engaged in the

transaction of American concerns.

He said he would now proceed to examine whether the repeal of the Judiciary law of the last session of Congress would in any respect violate that salutary and practicable independence of the judges which was secured to them by the constitution. He said the terms *independence of Judges or of the Judiciary Department* was not to be found in the constitution. It was therefore a mere inference from some of the specified powers. And he believed, in the meaning of gentlemen, and to the extent they carry it, that the term is not to be found either in the spirit, general character, or phraseology, of any article or section of the constitution. He meant to give the constitution the most candid interpretation in his power, according to the plain and obvious import of the English language. He should discard, in his interpretation, the terms "common defence and general welfare," which had been resorted to by some gentlemen. He considered these words as containing no grant of power whatever but merely the expression of the ends or objects to be effected by the grants of specified powers. He therefore protested against drawing any aid whatever from them in his construction of the instrument. He said he had read through the whole constitution, to enable him to form his opinion upon this question, for fear there might be in some hidden corner of it some provision which might demonstrate the unconstitutionality of the present bill; and if so, (although he should lament such a provision,) he would instantly give up the bill. But his researches had terminated in a different result. He said he found, from the general character of the constitution, that the general will was its basis, the general good its object, and the fundamental principle for effecting this object was the responsibility of all public agents, either mediately or immediately to the people. He said the context of the constitution would demonstrate the two first points, which he begged to read:

"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, do ordain and establish this Constitution for the United States of America."

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Here we find the constitution founded upon the will of the people, and the object declared to be the good of the people. Through the whole body of the constitution may be discerned the responsibility of all public agents, either mediately or immediately, to the people. This responsibility results, first, from the division of authority into different departments; secondly, from a specification and limitation of the authorities of all and each of the departments; thirdly, from periodical appointments of the public agents. The first clause declares there shall be a Congress, to whom the business of legislation is confided. This Congress is to consist of a House of Representatives, to be chosen by the people immediately, and responsible to them at the end of every two years; and a Senate, to be chosen by the Legislatures of the different States, who are chosen by the people—one-third of the Senators to be chosen every two years, and responsible at the end of every six years. The Executive power is vested in a President, who is chosen by electors, who are chosen for the express purpose by the people, and responsible at the end of every four years. The President may be considered as immediately responsible to the people, although chosen through the medium of electors; because it is found, in practice, that the electors are constrained to avow the vote they intend to give before they are chosen, and the people have generally made their elections with a view to that object.

Thus, then, are formed two departments, their powers specified and defined, the times for extending their powers fixed, and indeed a complete organization for the execution of their respective powers, without the intervention of any law for that purpose. A third department, to wit, the Judiciary Department, is still wanting. Is that formed by the constitution? How is that to be formed? It is not formed by the constitution. It is only declared that there shall be such a department; and it is directed to be formed by the other two departments, who owe a responsibility to the people. Here there arises an important difference of opinion between the different sides of this House. It is contended on one side that the Judiciary Department is formed by the constitution itself. It is contended on the other side, that the constitution does no more than to declare that there shall be a Judiciary Department, and directs that it shall be formed by the other two departments, under certain modifications. Article third, section first, the constitution has these words: "The Judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress shall from time to time ordain and establish." Here, then, the power to ordain and establish inferior courts is given to Congress in the most unqualified terms, and also to ordain and establish "one Supreme Court." The only limitation upon the power of Congress in this clause, consists in the number of supreme courts to be established; the limitation is to the number of one, although that is an affirmative and not a negative expression. The number of judges, the assignation of duties, the fixing compensations, the fixing the times when, and places where, the courts shall exercise their functions, &c., are left to the entire discretion of Congress. The spirit, as well as the words of the constitution, are completely satisfied, provided one Supreme Court be established. Hence, when all these essential points in the organization and formation of courts are intrusted to the unlimited discretion of Congress, it cannot be said that the courts are formed by the constitution. For further restraints, therefore, upon the discretion of Congress, the remaining part of the same section must be consulted. Here he begged leave to remark, that he had often felt a veneration for the wisdom of the sages who formed this constitution; considering the difficulties they had to encounter, resulting from the various local prejudices and local interests of the different parts of the United States, and the vast variety of opinions which the subject presented, it was almost wonderful to conceive how they should have hit upon a system so admirably calculated to protect and to promote the general interests, when administered according to its original meaning and



intention. He could not go so far as to say it was perfect. He admitted, like other human productions, it was stamped with the common fallibility of man. That he wished, however, to see no radical changes in its principles. He wished to hand it down to posterity with those amendments only which experience should suggest, and which would grow out of the continually varying state of the nation. He said it was not only remarkable for the wisdom of its arrangements, but the correct and technical mode of expression. The part of the section now to be examined, was an example of the justice of both these remarks. The words are, "the judges both of the supreme and inferior courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

The first part of the sentence respects the relationship between the Executive and the Judiciary Departments. It respects judges or officers of the courts who are appointed by the President. The last part of the sentence respects the relationship between the Legislative and Judiciary Departments. It respects the creation of offices, the fixing the compensation of the officers or judges, and their continuance in office. These are the peculiar attributes of the Legislative Department. Accordingly, the most correct and technical words are used in relation to both these objects. The term "hold their offices during good behavior," relates merely to the Executive Department. The term "hold," is the common technical word used to convey the idea of tenure. Tenure requires two parties. The one granting, the other holding or receiving the grant. Let the inquiry be made, of whom do the judges hold? The constitution furnishes the answer, of the President. One of the most obvious rules in the construction of instruments of writing is, that the whole of it must be taken together, and not one particular part by itself. The following words will be found in the second section of the second article of the constitution: "And he (to wit, 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." In the third section of the same article, are these words: "And shall (to wit, the President) commission all the officers of the United States." These three sentences contain the relationship between the Executive and Judiciary Departments, so far as respects the objects of the present discussion.

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To ascertain the real meaning and import of these sentences, they should be read in connection with each other, excluding therefrom all intermediate words not immediately bearing on the subject. In that case the constitution would read thus: "He (to wit, the President) shall nominate and appoint the Judges of the Supreme Court, and all other officers of the United States, and shall commission all the officers of the United States. The judges both of the supreme and inferior courts shall hold their offices during good behavior." It may now be asked, if this case of the judges of the supreme and inferior courts be not an obvious exception out of the general Presidential discretion of appointing and commissioning all officers of the United States during pleasure? After the Government has been in operation above twelve years, and the principle of commissioning all Executive officers during pleasure, has been practised upon during the whole of the period by the Executive, as well as the Legislative Department, the propriety of that practice is for the first time now become questionable. It is said that the right to commission during pleasure, is by implication. It is readily admitted that there are no express words in the constitution to that effect; but the inference from the words which are there, is almost as strong as the words themselves, if they had been inserted. The President is authorized, without limitation, to "commission all the officers of the United States." The question arises, by what tenure? The reply is, according to his pleasure or discretion. It was not difficult to foresee, that if the President was fully empowered to commission as he pleased, he would please to commission during his pleasure. The Legislature has no more control over an officer who holds an Executive commission during the pleasure of the President, than over a Judicial officer holding his office during good behavior. The remedy given by the constitution being the same in both cases, to wit, impeachment. Nor is there any reason why the office of the one should be less subject to the discretion of the Legislature, than the office of the other; and it seems to be universally agreed, that although the Legislature cannot deprive an Executive officer of his office in any other way than by impeachment, during the continuance of such office, yet the office itself is always subject to be abolished. The same reasoning will hold with equal force respecting a judge and a Judicial office. The reason why the Executive is proscribed from the removal of a judge, is to secure to the judge a complete independence of the President, who is not responsible for the discharge of Judicial duties; but the removal is perfectly correct in the case of an Executive officer, because the President is highly responsible for the due discharge of Executive duties. The Legislature is not responsible for either, and of course stands in the same constitutional relation to both. This appears obvious from furnishing to the Legislature the same means of removing both, as will appear by the fourth section of the second article, in the following words: "The President, Vice President, and all civil officers of the United States, shall be removed from office by impeachment for, and conviction of treason, bribery, or other high crimes or misdemeanors." He now begged to call the attention of the committee particularly to the last clause of the sentence, which ascertains the constitutional connection between the Legislative and Judicial Departments, so far as respects the limitation of the Legislative, in the exercise of the power committed to it, for the organization of the Judicial Department. He should place particular emphasis on these words of the constitution in the exposition he proposed to make. The words are: "And shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office." The first part of this section having given to Congress the power of creating courts, ascertaining the number of judges, &c., these last words may be considered as containing explanations and limitations of the general power of Congress, as was the foregoing part of this

sentence a limitation of the general Executive power. And accordingly the most correct terms are used for limiting Legislative discretion, and explaining its objects; according to the words of this sentence, the judge is to receive a compensation for his services. To whom are these services to be rendered? To the people, for the benefit of the people. Who is to judge of the necessity or utility of these services? The constitution has ordained, that Congress, or, in other words, the Representatives of the people, shall be the tribunal. Suppose there should be no services required, none for the judge to perform, and that Congress should so think and determine: is the judge entitled to compensation? He is not. The condition of service for the benefit of the people, is the express consideration upon which the compensation accrues. No service is rendered, the competent tribunal says, there is none required, of course no compensation accrues. The judge is entitled to receive none. On this point, an obvious and most important difference of opinion exists between the two sides of the committee. On one side it is contended, that the office is the vested property of the judge, conferred on him by his appointment, and that his good behavior is the consideration of his compensation; so long, therefore, as his good behavior exists, so long his office must continue in consequence of his good behavior, and that his compensation is his property in virtue of his office, and therefore cannot be taken away by any authority whatever, although there may be no service for him to perform. On the other side, it is contended that the good behavior is not the consideration upon which the compensation accrues, but services rendered for the public good; and that if the office is to be considered as a property, it is a property held in trust for the benefit of the people, and must therefore be held subject to that condition, of which Congress is the constitutional judge. Mr. G. said, considering the boundary line between these conflicting opinions to be the boundary line between the offices held for public utility, and offices held for personal favor, he could not bestow too much attention upon this part of the discussion; for if the construction gentlemen contend for should prevail, in vain have the framers of the constitution, with so much jealous circumspection, erected so many ramparts against the introduction of some of these offices in the Government of the United States. A sinecure office is an office held without the condition of service; often for past services already compensated; often for present favor, without the condition of any service. For the purpose of excluding from the Federal Government all sinecure offices, the sages who formed the constitution have through every part of it connected services and compensation, and they ought never to be separated in construction. The sixth section of the first article is in these words: "The Senators and Representatives shall receive a compensation for their services, to be ascertained by law," &c., and so far has this principle of the rendition of service been carried, that the service of the Senate and Representatives is to be rendered every day, and unless they do daily render service, they are not entitled to their day's compensation. In the first section of the second article of the constitution, are these words: "The President shall, at stated times, receive for his services a compensation," &c. In the forty-first section of the act under which the judges claim their compensation, are these words: "That each of the circuit judges of the United States, to be appointed by virtue of this act, shall be allowed as a compensation for his services," &c. These expressions all demonstrate the importance of coupling the service and compensation of office. But the jealous caution of the framers of the constitution did not stop at choosing the best affirmative expression for excluding this doctrine of sinecure offices, they also applied negative restraints.

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In the ninth section of the first article of the constitution, are these words, "No money shall be drawn from the Treasury but in consequence of appropriations made by law." In the same section, "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 of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State." If then services rendered for the public benefit be the essential consideration, upon which the compensation does accrue to the judges; if the Congress be the proper tribunal for pronouncing upon the necessity or utility of such service, and if they decide that no such service is necessary or useful; the judge sustains no injury in not receiving the compensation, because he does not comply with the condition on his part; nor does he sustain a hardship thereby, because it must be presumed that he understood the second conditions attached to his office at the time of his acceptance. It has been admitted by all gentlemen, that Congress is the constitutional tribunal for deciding respecting the services to be performed. They admit that Congress may modify the courts, diminish or add to their duties, alter the terms of their sessions, or make any other arrangements respecting them which do not go to take away or diminish their compensations. It is to be observed that there is not one of these powers specified in the constitution; they are therefore necessary inferences from the paramount power "to ordain and establish," and the power of repeal, or to take away all the services to be performed, is as necessary an inference as either of the others, and has uniformly resulted from every other specified power in the constitution. From this part of the sentence, therefore, it is deducible, that the only restraint upon the general power given to Congress in the first part of the section to ordain and establish courts, is, that the compensations of the judges should not be lessened during their continuance in office; not during their good behavior. And in this part of the sentence the correct phraseology of the constitution is worthy of observation. In speaking of the Executive attribute, to wit, the appointing and commissioning officers, the term *good behavior* is used. In speaking of the Legislative attribute, to wit, the creation of the offices and fixing compensations, the term *during their continuance in office* is used. The reason for this variation of expression is obvious. It was known that the office might be discontinued, and the judge continue to behave well; the limitation was therefore applied to the office, and not the good behavior, because if the office should be discontinued, which is clearly implied in this expression, it was not the intention of the constitution that the compensation should be received, no service in that event being to be

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rendered. From this interpretation of the constitution, all of the departments are preserved in the due exercise of their respective functions for the general good, without any of the mischievous and absurd consequences resulting from the opposite construction. It is admitted that the first part of this section expressly vests Congress with the general power to ordain and establish courts; and, if there had been no other restriction, the consequent power to unordain, or abolish. The restriction relied upon is not a restriction in express words: there are no words in the constitution prohibiting Congress from repealing a law for organizing courts; the restraint contended for, therefore, is by implication, and that implication, to say the least, not expressly connected with any Legislative attribute. Is it right, is it a correct interpretation, that when a power is given in express words for the most important purposes, that it should be restrained or prohibited by implication? Can so much inattention and folly be attributed to the framers of the constitution, as would result from the supposition that if it was their intention that a law growing out of one of the specified powers, in contradistinction to all others, should be irrevocable when once passed, that so extraordinary a principle would be left to mere implication? Such a supposition would be the highest injustice to the superior intelligence and patriotism of those gentlemen, manifested in every other part of the instrument. No, sir, they would have made notes of admiration: they would have used every mark, adopted every caution, to have arrested and fixed the attention of the Legislature to so extraordinary a principle.

They would have said, Legislators! Be circumspect! Be cautious! Be calm! Be deliberate! Be wise! Be wise not only for the present, but be wise for posterity! You are now about to tread upon holy ground. The law you are now about to pass, is irrevocable! Irrevocable! We are so enamored with the salutary and practical independence of the English Judiciary system, that in infusing its principle into our constitution, we have stamped it with the proverbial folly of the Medes and Persians! If this principle had been introduced into the constitution in express words, it would have formed an unfortunate contrast to all other parts of the instrument; yet gentlemen make no difficulty in introducing that principle by construction, which would have appeared so stupid and absurd if written in express words in the body of the instrument. But there is no such language in the constitution. Let us see what is the language of that instrument, "The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." Here, then, instead of cautioning the Legislature that a law for the organization of courts, when passed, can never be repealed, it contains an invitation to a revision from time to time. It contains an intimation, that the subject is new and difficult, and an injunction to ordain and establish your courts from time to time, according to the results, which an experience of the system alone could suggest. The gentleman from Pennsylvania (Mr. HEMPHILL) observed that the character of irrevocability was not exclusively attached to this law, and attempted to furnish instances of other laws of the same character. He instanced a law for the admission of a new State into the Union.

The gentleman from Kentucky (Mr. DAVIS) had given a proper reply to that remark; the strongest instance the gentleman gave, was of a law executed. After the new State is remitted into the Union, in virtue of a law for that purpose, the object of the law is answered. The State admitted has no stipulated duties to perform on its part, no services to render; in the case before the committee the law is in a state of execution, and the judges have services to render on their part which the competent tribunals may determine to be neither useful nor necessary. A law for the appropriation of money to a given object, may be adduced is an instance; the money is applied; its object is answered; the law may be said to be irrevocable, or, in other words, the repeal would produce no effect. That is not the case of the law in question. Mr. G. said he had no doubt but that the framers of the constitution had particular reference to the British act of Parliament of William III. for the establishment of the independence of the judges in that country, in framing the section for the establishment of the Judicial Department in the United States; and it is not a little remarkable, that whilst gentlemen in one breath speak of the independence of the English judges, as the boast and glory of that nation, in the next breath they tell us that by the repeal of the present act, the independence of the judges here would be immolated. Let this subject be examined. In the third chapter of the first book of Blackstone's Commentaries, the independence of the English Judiciary is fully explained. He begged to read the exposition of that commentator on that subject.

"And, in order to maintain both the dignity and independence of the judges of the superior courts, it is enacted by the statute, 13 W. III. c. 2, that their commissions shall be made (not, as formerly, *durante bene placito*, but) *quam diu bene se gesserint*, and their salaries ascertained and established; but that it may be lawful to remove them on the address of both Houses of Parliament. And now, by the noble improvements of that law in the statute of Geo. III. c. 23, enacted at the earnest recommendation of the King himself, from the Throne, the judges are continued in their offices during their good behavior, notwithstanding any demise of the Crown, (which was formerly held immediately to vacate their seats.) and their full salaries are absolutely secured to them during the continuance of their commissions. His Majesty having been pleased to declare, that "he looked upon the independence and uprightness of the judges, as essential to the impartial administration of justice; as one of the best securities of the rights and liberties of his subjects; and as the most conducive to the honor of the Crown."

Now, sir, under the doctrine contended for by the repeal of this law, let us see whether the judges of the United States are not more independent than the judges of England. In the first place, Congress have the power of originating, abolishing, modifying, &c., the courts here. The Parliament in England have the same power there. Congress cannot remove a judicial officer

from his office so long as the office itself is deemed useful, except by impeachment, two-thirds of the Senate being necessary to a conviction. In England, judges can be removed from their offices, although the offices may be deemed useful, by an address of the majority of the two Houses of Parliament. Here then is one essential advantage in favor of the independence of the judges of the United States. Congress cannot diminish the compensation of the judges here during their continuance in office. In England, the Parliament may diminish the compensation of the judges, at their discretion, during their continuance in office. Here, then, is another obvious advantage in favor of the independence of the judges of the United States; whence is it, then, that we hear of the independence of the English judiciary, as being the boast and glory of that country, and with justice, too, and at the same time hear the cry of the immolation of the independence of the judges of the United States, when, under the interpretation of the constitution by the favorers of the repeal, the judges here are more independent than the English judges? It can have no other object than to excite a popular clamor, which, if excited at all, can have only a momentary effect, and will be dissipated as soon as the subject shall be thoroughly examined and understood. But it appeared to him, that if gentlemen really do value the independence of the judges, they have taken an unfortunate ground in the interpretation of the constitution. Under their construction, the judges may be placed not only in a dependent, but a ludicrous point of view.

Gentlemen admit that Congress may constitutionally increase or diminish the duties of judges; give or take away jurisdiction; fix the times of holding courts, &c., saving therefrom the salaries of the judges. Under this admission, Congress may postpone the sessions of the courts for eight or ten years, and establish others, to whom they could transfer all the powers of the existing courts. In this case, the judges would be held up to the people as pensioners, receiving their money and rendering no service in return; or Congress might convert them into mere courts of piepoudre, assigning them the most paltry duties to perform, and keep them continually in session, in inconvenient places; whilst new courts could be erected to perform all the essential business of the nation. This would be taking down the high pretensions assigned to the judges by the gentleman from North Carolina, (Mr. HENDERSON,) of being formed into a permanent corps for the purpose of protecting the people against their worst enemies, themselves; and degrading them into pitiful courts of piepoudre, rendering little service and receiving large compensations. And this would be the case, if party purposes were the object, and not the general good. According to his construction, these absurd results could not take place, unless by a virtual breach of the constitution. Because, he contended, that service and compensation were correlative terms; and that there ought always to be a due apportionment of service to compensation. This he considered as the plain and sound interpretation of the constitution, and the moment it is departed from, infinite absurdities ensue. He intended to have taken another view of this subject, as it respects the relative influence of the law of the last session, and the proposed repeal upon this question; but the gentleman from Massachusetts (Mr. BACON) has put this subject in so much stronger point of view than he could do, that he would refer to his remarks thereupon, observing only that he had no doubt but that the law of last session, now proposed to be repealed, was, in every respect, as much opposed to the doctrine of gentlemen, as the contemplated repeal could be. The sections of the law particularly alluded to, are the twenty-fourth, in these words, "and be it further enacted, that the district courts of the United States, in and for the districts of Tennessee and Kentucky, shall be and are hereby abolished," and the twenty-seventh, in these words, "and be it further enacted, that the circuit courts of the United States, heretofore established, shall cease and be abolished."

Mr. G. concluded by observing that, upon the whole view of the subject, feeling the firmest conviction that there is no constitutional impediment in the way of repealing the act in question, upon the most fair and candid interpretation of the constitution:—believing that principles advanced in opposition, go directly to the destruction of the fundamental principle of the constitution, the responsibility of all public agents to the people—that they go to the establishment of a permanent corporation of individuals invested with ultimate censorial and controlling power over all the departments of the Government, over legislation, execution, and decision, and irresponsible to the people; believing that these principles are in direct hostility to the great principle of Representative Government; believing that the courts formerly established, were fully competent to the business they had to perform, and that the present courts are useless, unnecessary, and expensive; believing that the Supreme Court has heretofore discharged all the duties assigned to it in less than one month in the year, and that its duties could be performed in half that time; considering the compensations of the judges to be among the highest given to any of the highest officers of the United States for the services of the whole year; considering the compensations of all the judges greatly exceeding the services assigned them, as well as considering all the circumstances attending the substitution of the new system for the old one, by increasing the number of judges, and compensations, and lessening their duties by the distribution of the business into a great number of hands, &c., while acting under these impressions, he should vote against the motion now made for striking out the first section of the repealing bill.

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**FRIDAY, February 19.**

***Judiciary System.***

The House again resolved itself into a Committee of the whole House on the bill sent from the Senate, entitled "An act to repeal certain acts respecting the organization of the Courts of the United States, and for other purposes."

Mr. BAYARD.—Mr. Chairman, I must be allowed to express my surprise at the course pursued by the honorable gentleman from Virginia, (Mr. GILES,) in the remarks which he has made on the subject before us. I had expected that he would have adopted a different line of conduct. I had expected it as well from that sentiment of magnanimity which ought to have been inspired by a sense of the high ground he holds on the floor of this House, as from the professions of a desire to conciliate, which he has so repeatedly made during the session. We have been invited to bury the hatchet, and brighten the chain of peace. We were disposed to meet on middle ground. We had assurances from the gentleman that he would abstain from reflections on the past, and his only wish was that we might unite in future in promoting the welfare of our common country. We confided in the gentleman's sincerity, and cherished the hope that, if the divisions of party were not banished from the House, its spirit would be less intemperate. Such were our impressions, when the mask was suddenly thrown aside, and we saw the torch of discord lighted and blazing before our eyes. Every effort has been made to revive the animosities of the House, and inflame the passions of the nation. I am at no loss to perceive why this course has been pursued. The gentleman has been unwilling to rely upon the strength of his subject, and has therefore determined to make the measure a party question. He has probably secured success, but would it not have been more honorable and more commendable to have left the decision of a great constitutional question to the understanding, and not to the prejudices of the House? It was my ardent wish to discuss the subject with calmness and deliberation, and I did intend to avoid every topic which could awaken the sensibility of party. This was my temper and design when I took my seat yesterday. It is a course at present we are no longer at liberty to pursue. The gentleman has wandered far, very far, from the points of the debate, and has extended his animadversions to all the prominent measures of the former administrations. In following him through his preliminary observations, I necessarily lose sight of the bill upon your table.

The gentleman commenced his strictures with the philosophic observation, that it was the fate of mankind to hold different opinions as to the form of government which was preferable. That some were attached to the monarchical, while others thought the republican more eligible. This, as an abstract remark, is certainly true, and could have furnished no ground of offence, if it had not evidently appeared that an allusion was designed to be made to the parties in this country. Does the gentleman suppose that we have a less lively recollection than himself of the oath which we have taken to support the constitution; that we are less sensible of the spirit of our Government, or less devoted to the wishes of our constituents? Whatever impression it might be the intention of the gentleman to make, he does not believe that there exists in this country an anti-republican party. He will not venture to assert such an opinion on the floor of this House. That there may be a few individuals having a preference for monarchy is not improbable; but will the gentleman from Virginia, or any other gentleman, affirm, in his place, that there is a party in the country who wish to establish a monarchy? Insinuations of this sort belong not to the Legislature of the Union. Their place is an election ground or an alehouse. Within these walls they are lost; abroad, they have an effect, and I fear are still capable of abusing the popular credulity.

We were next told of the parties which have existed, divided by the opposite views of promoting the Executive power and guarding the rights of the people. The gentleman did not tell us in plain language, but he wished it to be understood, that he and his friends were the guardians of the people's rights, and that we were the advocates of Executive power.

I know that this is the distinction of party which some gentlemen have been anxious to establish; but this is not the ground on which we divide. I am satisfied with the constitutional powers of the Executive, and never wished nor attempted to increase them; and I do not believe that gentlemen on the other side of the House ever had a serious apprehension of danger from an increase of Executive authority. No, sir, our views as to the powers which do and ought to belong to the General and State Governments, are the true sources of our divisions. I co-operate with the party to which I am attached, because I believe their true object and end, is an honest and efficient support of the General Government, in the exercise of the legitimate powers of the constitution.

I pray to God I may be mistaken in the opinion I entertain as to the designs of gentlemen to whom I am opposed. Those designs I believe hostile to the powers of this Government. State pride extinguishes a national sentiment. Whatever is taken from this Government is given to the States.

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The ruins of this Government aggrandize the States. There are States which are too proud to be controlled; whose sense of greatness and resource renders them indifferent to our protection, and induces a belief, that if no General Government existed, their influence would be more extensive, and their importance more conspicuous. There are gentlemen who make no secret of an extreme point of depression, to which the Government is to be sunk. To that point we are rapidly progressing. But I would beg gentlemen to remember, that human affairs are not to be arrested in their course, at artificial points. The impulse now given may be accelerated by causes at present out of view. And when those who now design well, wish to stop, they may find their powers unable to resist the torrent. It is not true that we ever wished to give a dangerous strength to Executive power. While the Government was in our hands, it was our duty to maintain its constitutional balance, by preserving the energies of each branch. There never was an attempt to vary the relation of its powers. The struggle was to maintain the constitutional powers of the Executive. The wild principles of French liberty were scattered through the country. We had our Jacobins and disorganizers. They saw no difference between a King and a President, and as the people of France had put down their King, they thought the people of America ought to put down their President. They who considered the constitution as securing all the principles of rational and practical liberty, who were unwilling to embark upon the tempestuous sea of revolution, in pursuit of visionary schemes, were denounced as monarchists. A line was drawn between the

Government and the people, and the friends of the Government were marked as the enemies of the people. I hope, however, that the Government and the people are now the same; and I pray to God that what has been frequently remarked may not in this case be discovered to be true, that they who have the name of people the most often in their mouths, have their true interests the most seldom at their hearts.

The honorable gentleman from Virginia wandered to the very confines of the Federal Administration, in search of materials the most inflammable and most capable of kindling the passions of his party.

He represents the Government as seizing the first moment which presented itself to create a dependent moneyed interest, ever devoted to its views. What are we to understand by this remark of the gentleman? Does he mean to say that Congress did wrong in funding the public debt? Does he mean to say that the price of our liberty and independence ought not to have been paid? Is he bold enough to denounce this measure as one of the Federal victims marked for destruction? Is it the design to tell us that its day has not yet come, but is approaching; and that the funding system is to add to the pile of Federal ruins? Do I hear the gentleman say we will reduce the army to a shadow; we will give the navy to the worms; the mint, which presented the people with the emblems of their liberty, and of their sovereignty, we will abolish; the revenue shall depend upon the winds and waves; the judges shall be made our creatures, and the great work shall be crowned and consecrated by relieving the country from an odious and oppressive public debt? These steps, I presume, are to be taken in progression. The gentleman will pause at each, and feel the public pulse. As the fever increases he will proceed, and the moment of delirium will be seized to finish the great work of destruction.

The assumption of the State debts has been made an article of distinct crimination. It has been ascribed to the worst motives—to a design of increasing a dependent moneyed interest. Is it not well known that those debts were part of the price of our Revolution? That they rose in the exigency of our affairs, from the efforts of the particular States, at times when the Federal arm could not be extended to their relief? Each State was entitled to the protection of the Union, the defence was a common burden, and every State had a right to expect that the expenses attending its individual exertions in the general cause, would be reimbursed from the public purse. I shall be permitted further to add, that the United States, having absorbed the sources of State revenue, except direct taxation, which was required for the support of the State governments, the assumption of these debts was necessary to save some of the States from bankruptcy.

The internal taxes are made one of the crimes of the Federal Administration. They were imposed, says the gentleman, to create a host of dependents on Executive favor. This supposes the past administrations to have been not only very wicked, but very weak. They laid taxes in order to strengthen their influence. Who is so ignorant as not to know, that the imposition of a tax would create a hundred enemies for one friend? The name of excise was odious; the details of collection were unavoidably expensive, and it was to operate upon a part of the community least disposed to support public burdens, and most ready to complain of their weight. A little experience will give the gentleman a new idea of the patronage of this Government. He will find it not that dangerous weapon in the hands of the administration which he has heretofore supposed it; he will probably discover that the poison is accompanied by its antidote, and that an appointment of the Government, while it gives to the administration one lazy friend, will raise up against it ten active enemies. No! The motive ascribed for the imposition of the internal taxes is as unfounded as it is uncharitable. The Federal Administration, in creating burdens to support the credit of the nation, and to supply the means of its protection, knew that they risked the favor of those upon whom their power depended. They were willing to be the victims when the public good required.

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The duties on imports and tonnage furnished a precarious revenue—a revenue at all times exposed to deficiency, from causes beyond our reach. The internal taxes offered a fund less liable to be impaired by accident—a fund which did not rob the mouth of labor, but was derived from the gratification of luxury. These taxes are an equitable distribution of the public burdens. Through this medium the Western country is enabled to contribute something to the expenses of a Government which has expended and daily expends such large sums for its defence. When these taxes were laid they were indispensable. With the aid of them it has been difficult to prevent an increase of the public debt. And notwithstanding the fairy prospects which now dazzle our eyes, I undertake to say, if you abolish them this session, you will be obliged to restore them or supply their place by a direct tax before the end of two years. Will the gentleman say, that the direct tax was laid in order to enlarge the bounds of patronage? Will he deny that this was a measure to which we had been urged for years by our adversaries, because they foresaw in it the ruin of Federal power? My word for it, no administration will ever be strengthened by a patronage united with taxes which the people are sensible of paying.

We were next told, that to get an army an Indian war was necessary. The remark was extremely bald, as the honorable gentleman did not allege a single reason for the position. He did not undertake to state that it was a wanton war, or provoked by the Government. He did not even venture to deny, that it was a war of defence, and entered into in order to protect our brethren on the frontiers from the bloody scalping-knife and murderous tomahawk of the savage. What ought the government to have done? Ought they to have estimated the value of the blood which probably would be shed, and the amount of the devastation likely to be committed before they determined on resistance? They raised an army, and after great expense and various fortune, they have secured the peace and safety of the frontiers. But why was the army mentioned on this occasion, unless to fore-warn us of the fate which awaits them, and to tell us that their days are numbered? I cannot suppose that the gentleman mentioned this little army, distributed on a line

of three thousand miles, for the purpose of giving alarm to three hundred thousand free and brave yeomanry, ever ready to defend the liberties of the country.

The honorable gentleman proceeded to inform the committee, that the Government, availing itself of the depredations of the Algerines, created a navy. Did the gentleman mean to insinuate, that this war was invited by the United States? Has he any documents or proof to render the suspicion colorable? No, sir, he has none. He well knows that the Algerine aggressions were extremely embarrassing to the Government. When they commenced, we had no marine force to oppose to them. We had no harbors or places of shelter in the Mediterranean. A war with these pirates could be attended with neither honor nor profit. It might cost a great deal of blood, and in the end it might be feared that a contest so far from home, subject to numberless hazards and difficulties, could not be maintained. What would gentlemen have had the Government to do? I know there are those who are ready to answer: abandon the Mediterranean trade. But would this have done? The corsairs threatened to pass the Straits, and were expected in the Atlantic. Nay, sir, it was thought that our very coasts would not have been secure.

Will gentlemen go further, and say that the United States ought to relinquish their commerce. It has been said that we ought to be cultivators of the earth, and make the nations of Europe our carriers. This is not an occasion to examine the solidity of this opinion; but I will only ask, admitting the administration were disposed to turn the pursuits of the people of this country from the ocean to the land, whether there is a power in the Government, or whether there would be if we were as strong as the Government of Turkey, or even of France, to accomplish the object? With a sea-coast of seventeen hundred miles, with innumerable harbors and inlets, with a people enterprising beyond example, is it possible to say, you will have no ships or sailors, nor merchants? The people of this country will never consent to give up their navigation, and every administration will find themselves constrained to provide means to protect their commerce.

In respect to the Algerines, the late administration were singularly unfortunate. They were obliged to fight or pay them. The true policy was to hold a purse in one hand and a sword in the other. This was the policy of the Government. Every commercial nation in Europe was tributary to those petty barbarians. It was not esteemed disgraceful. It was an affair of calculation, and the administration made the best bargain in their power. They have heretofore been scandalized for paying tribute to a pirate, and now they are criminated for preparing a few frigates to protect our citizens from slavery and chains! Sir, I believe on this and many other occasions, if the finger of Heaven had pointed out a course, and the Government had pursued it, yet that they would not have escaped the censure and reproaches of their enemies.

We were told that the disturbances in Europe were made a pretext for augmenting the army and navy. I will not, Mr. Chairman, at present go into a detailed view of the events which compelled the Government to put on the armor of defence, and to resist by force the French aggressions. All the world know the efforts which were made to accomplish an amicable adjustment of differences with that power. It is enough to state, that ambassadors of peace were twice repelled from the shores of France with ignominy and contempt. It is enough to say, that it was not till after we had drunk the cup of humiliation to the dregs, that the national spirit was roused to a manly resolution, to depend only on their God and their own courage for protection. What, sir, did it grieve the gentleman that we did not crouch under the rod of the Mighty Nation, and, like the petty powers of Europe, tamely surrender our independence? Would he have had the people of the United States relinquish without a struggle those liberties which had cost so much blood and treasure? We had not, sir, recourse to arms, till the mouths of our rivers were choked with French corsairs; till our shores, and every harbor, were insulted and violated; till half our commercial capital had been seized, and no safety existed for the remainder but the protection of force. At this moment a noble enthusiasm electrized the country; the national pulse beat high, and we were prepared to submit to every sacrifice, determined only that our independence should be the last. At that time an American was a proud name in Europe; but I fear, much I fear, that in the course we are now likely to pursue, the time will soon arrive when our citizens abroad will be ashamed to acknowledge their country.

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The measures of 1798 grew out of the public feelings; they were loudly demanded by the public voice. It was the people who drove the Government to arms, and not (as the gentleman expressed it) the Government which pushed the people to the X, Y, Z of the political designs before they understood the A, B, C of their political principles.

But what, sir, did the gentleman mean by his X, Y, Z? I must look for something very significant—something more than a quaintness of expression, or a play upon words—in what falls from a gentleman of his learning and ability. Did he mean that the dispatches which contained those letters were impostures, designed to deceive and mislead the people of America—intended to rouse a false spirit not justified by events? Though the gentleman had no respect for some of the characters of that embassy; though he felt no respect for the Chief Justice, or the gentleman appointed from South Carolina—two characters as pure, as honorable, as exalted, as any the country can boast of—yet I should have expected that he would have felt some tenderness for Mr. Gerry, in whom his party had since given proofs of undiminished confidence. Does the gentleman believe that Mr. Gerry would have joined in the deception, and assisted in fabricating a tale which was to blind his countrymen, and to enable the Government to destroy their liberties? Sir, I will not avail myself of the equivocations or confessions of Talleyrand himself; I say these gentlemen will not dare publicly to deny what is attested by the hand and seal of Mr. Gerry.

The truth of these despatches admitted, what was your Government to do? Give us, say the Directory, 1,200,000 livres for our own purse, and purchase \$15,000,000 of Dutch debt, (which was worth nothing,) and we will receive your Ministers, and negotiate for peace.

It was only left to the Government to choose between an unconditional surrender of the honor and independence of the country, or a manly resistance. Can you blame, sir, the Administration for a line of conduct which has reflected on the nation so much honor, and to which, under God, it owes its present prosperity?

These are the events of the General Government which the gentleman has reviewed in succession, and endeavored to render odious or suspicious. For all this I could have forgiven him, but there is one thing for which I will not, I cannot forgive him—I mean this attempt to disturb the ashes of the dead; to disturb the ashes of the great and good WASHINGTON! Sir, I might degrade by attempting to eulogize this illustrious character. The work is infinitely beyond my powers. I will only say, that as long as exalted talents and virtues confer honor among men, the name of WASHINGTON will be held in veneration.

After, Mr. Chairman, the honorable member had exhausted one quiver of arrows against the late Executive, he opened another, equally poisoned, against the Judiciary. He has told us, sir, that when the power of the Government was rapidly passing from Federal hands—after we had heard the thundering voice of the people which dismissed us from their service—we erected a Judiciary, which we expected would afford us the shelter of an inviolable sanctuary. The gentleman is deceived. We knew better, sir, the characters who were to succeed us, and we knew that nothing was sacred in the eyes of infidels. No, sir, I never had a thought that any thing belonging to the Federal Government was holy in the eyes of those gentlemen. I could never, therefore, imagine that a sanctuary could be built up which would not be violated. I believe these gentlemen regard public opinion, because their power depends upon it; but I believe they respect no existing establishment of the Government; and if public opinion could be brought to support them, I have no doubt they would annihilate the whole. I shall at present only say further, on this head, that we thought the reorganization of the Judicial system a useful measure, and we consider it as a duty to employ the remnant of our power to the best advantage of our country.

The honorable gentleman expressed his joy that the constitution had at last become sacred in our eyes: that we formerly held that it meant every thing or nothing. I believe, sir, that the constitution formerly appeared different in our eyes from what it appears in the eyes of the dominant party. We formerly saw in it the principles of a fair and goodly creation. We looked upon it as a source of peace, of safety, of honor, and of prosperity to the country. But now the view is changed; it is the instrument of wild and dark destruction; it is a weapon which is to prostrate every establishment to which the nation owes the unexampled blessings which it enjoys.

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The present state of the country is an unanswerable commentary upon our construction of the constitution. It is true that we made it mean much; and hope, sir, we shall not be taught by the present Administration that it can mean even worse than nothing.

The gentleman has not confined his animadversions to the individual establishment, but has gone so far as to make the judges the subject of personal invective. They have been charged with having transgressed the bounds of Judicial duty, and become the apostles of a political sect. We have heard of their travelling about the country for little other purpose than to preach the Federal doctrines to the people.

Sir, I think a judge should never be a partisan. No man would be more ready to condemn a judge who carried his political prejudices or antipathies on the bench. But I have still to learn that such a charge can be sustained against the judges of the United States.

The constitution is the supreme law of the land, and they have taken pains, in their charges to grand juries, to unfold and explain its principles. Upon similar occasions they have enumerated the laws which compose our criminal code, and when some of those laws have been denounced by the enemies of the Administration as unconstitutional, the judges may have felt themselves called upon to express their judgments upon that point, and the reasons of their opinions.

So far, but no farther, I believe, the judges have gone. In going thus far, they have done nothing more than faithfully discharge their duty.

But if, sir, they have offended against the constitution or laws of the country, why are they not impeached? The gentleman now holds the sword of justice. The judges are not a privileged order; they have no shelter but their innocence. But, in any view, are the sins of the former judges to be fastened upon the new Judicial system? Would you annihilate a system because some men under part of it had acted wrong? The constitution has pointed out a mode of punishing and removing the men, and does not leave this miserable pretext for the wanton exercise of powers which is now contemplated.

The honorable member has thought himself justified in making a charge of a serious and frightful nature against the judges. They have been represented going about searching out victims of the Sedition law. But no fact has been stated; no proof has been adduced, and the gentleman must excuse me for refusing my belief to the charge, till it is sustained by stronger and better ground than assertion.

If, however, Mr. Chairman, the eyes of the gentlemen are delighted with victims, if objects of misery are grateful to his feelings, let me turn his view from the walks of the judges to the track of the present Executive. It is in this path we see the real victims of stern, uncharitable, unrelenting power. It is here, sir, we see the soldier who fought the battles of the Revolution, who spilt his blood and wasted his strength to establish the independence of his country, deprived of the reward of his services, and left to pine in penury and wretchedness. It is along this path that you may see helpless children crying for bread, and gray hairs sinking in sorrow to



the grave! It is here that no innocence, no merit, no truth, no services, can save the unhappy sectary who does not believe in the creed of those in power. I have been forced upon this subject, and before I leave it, allow me to remark, that without inquiring into the right of the President to make vacancies in office during the recess of the Senate, but admitting the power to exist, yet that it never was given by the constitution to enable the Chief Magistrate to punish the insults, to revenge the wrongs, or to indulge the antipathies of the man. If the discretion exists, I have no hesitation in saying that it is abused when exercised from any other motives than the public good. And when I see the will of a President precipitating from office men of probity, knowledge, and talents, against whom the community has no complaint, I consider it as a wanton and dangerous abuse of power. And when I see men who have been the victims of this abuse of power, I view them as the proper objects of national sympathy and commiseration.

Among the causes of impeachment against the judges, is their attempt to force the sovereignties of the States to bow before them. We have heard them called an ambitious body politic; and the fact I allude to has been considered as full proof of the inordinate ambition of the body.

Allow me to say, sir, the gentleman knows too much not to know that the judges are not a body politic. He supposed, perhaps, there was an odium attached to the appellation, which it might serve his purposes to connect with the judges. But, sir, how do you derive any evidence of the ambition of the judges from their decision that the States under our Federal compact were compellable to do justice? Can it be shown, or even said, that the judgment of the court was a false construction of the constitution? The policy of later times on this point has altered the constitution, and, in my opinion, has obliterated its fairest features. I am taught by my principles that no power ought to be superior to justice. It is not that I wish to see the States humbled in dust and ashes; it is not that I wish to see the pride of any man flattered by their degradation; but it is that I wish to see the great and the small, the sovereign and the subject, bow at the altar of justice, and submit to those obligations from which the Deity himself is not exempt. What was the effect of this provision in the constitution? It prevented the States being the judges in their own cause, and deprived them of the power of denying justice. Is there a principle of ethics more clear than that a man ought not to be a judge in his own cause, and is not the principle equally strong when applied not to one man but to a collective body? It was the happiness of our situation which enabled us to force the greatest State to submit to the yoke of justice, and it would have been the glory of the country in the remotest times, if the principle in the constitution had been maintained. What had the States to dread? Could they fear injustice when opposed to a feeble individual? Has a great man reason to fear from a poor one? And could a potent State be alarmed by the unfounded claim of a single person? For my part I have always thought that an independent tribunal ought to be provided to judge on the claims against this Government. The power ought not to be in our own hands. We are not impartial, and are therefore liable, without our knowledge, to do wrong. I never could see why the whole community should not be bound by as strong an obligation to do justice to an individual, as one man is bound to do it to another.

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In England the subject has a better chance for justice against the Sovereign than in this country a citizen has against a State. The Crown is never its own arbiter, and they who sit in judgment have no interest in the event of their decision.

The judges, sir, have been criminated for their conduct in relation to the Sedition act, and have been charged with searching for victims who were sacrificed under it. The charge is easily made, but has the gentleman the means of supporting it? It was the evident design of the gentleman to attach the odium of the Sedition law to the Judiciary; on this score the Judges are surely innocent. They did not pass the act; the Legislature made the law, and they were obliged by their oaths to execute it. The judges decided the law to be constitutional, and I am not now going to agitate the question. I did hope, when the law passed, that its effect would be useful. It did not touch the freedom of speech, and was designed only to restrain the enormous abuses of the press. It went no farther than to punish malicious falsehoods, published with the wicked intention of destroying the Government. No innocent man ever did or could have suffered under the law. No punishment could be inflicted till a jury was satisfied that a publication was false, and that the party charged, knowing it to be false, had published it with an evil design.

The misconduct of the judges, however, on this subject, has been considered by the gentleman the more aggravated, by an attempt to extend the principles of the Sedition act, by an adoption of those of the common law. Connected with this subject, such an attempt was never made by the judges. They have held, generally, that the Constitution of the United States was predicated upon an existing common law. Of the soundness of that opinion, I never had a doubt. I should scarcely go too far, were I to say, that, stripped of the common law, there would be neither constitution nor Government. The constitution is unintelligible without reference to the common law. And were we to go into our courts of justice with the mere statutes of the United States, not a step could be taken, not even a contempt could be punished. Those statutes prescribe no forms of pleadings; they contain no principles of evidence; they furnish no rule of property. If the common law does not exist in most cases, there is no law but the will of the judge.

I have never contended that the whole of the common law attached to the constitution, but only such parts as were consonant to the nature and spirit of our Government. We have nothing to do with the law of the Ecclesiastical Establishment, nor with any principle of monarchical tendency. What belongs to us, and what is unsuitable, is a question for the sound discretion of the judges. The principle is analogous to one which is found in the writings of all jurists and commentators. When a colony is planted, it is established subject to such parts of the law of the mother country as are applicable to its situation. When our forefathers colonized the wilderness of America, they brought with them the common law of England. They claimed it as their birthright, and they left

it as the most valuable inheritance to their children. Let me say, that this same common law, now so much despised and vilified, is the cradle of the rights and liberties which we now enjoy. It is to the common law we owe our distinction from the colonists of France, of Portugal, and of Spain. How long is it since we have discovered the malignant qualities which are now ascribed to this law? Is there a State in the Union which has not adopted it, and in which it is not in force? Why is it refused to the Federal Constitution? Upon the same principle that every power is denied which tends to invigorate the Government. Without this law the constitution becomes, what perhaps many gentlemen wish to see it, a dead letter.

For ten years it has been the doctrine of our courts, that the common law was in force, and yet can gentlemen say, that there has been a victim who has suffered under it? Many have experienced its protection, none can complain of its oppression.

In order to demonstrate the aspiring ambition of this body politic, the Judiciary, the honorable gentleman stated with much emphasis and feeling that the judges had been hardy enough to send their mandate into the Executive cabinet. Was the gentleman, sir, acquainted with the fact when he made this statement? It differs essentially from what I know I have heard upon the subject. I shall be allowed to state the fact.

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Several commissions had been made out by the late Administration for justices of the peace of this Territory. The commissions were complete; they were signed and sealed, and left with the clerks of the office of State to be handed to the persons appointed. The new Administration found them on the Clerk's table, and thought proper to withhold them. These officers are not dependent on the will of the President. The persons named in the commissions considered that their appointments were complete, and that the detention of their commissions was a wrong, and not justified by the legitimate authority of the Executive. They applied to the Supreme Court for a rule upon the Secretary of State, to show cause why a mandamus should not issue, commanding him to deliver up the commissions. Let me ask, sir, what could the judges do? The rule to show cause was a matter of course upon a new point, at least doubtful. To have denied it, would have been to shut the doors of justice against the parties. It concludes nothing, neither the jurisdiction nor the regularity of the act. The judges did their duty; they gave an honorable proof of their independence. They listened to the complaint of an individual against your President, and have shown themselves disposed to grant redress against the greatest man in the Government. If a wrong has been committed, and the constitution authorizes their interference, will gentlemen say that the Secretary of State, or even the President, is not subject to law? And if they violate the law, where can we apply for redress but to our courts of justice? But, sir, it is not true that the judges issued their mandate to the Executive; they have only called upon the Secretary of State to show them that what he has done is right. It is but an incipient proceeding which decides nothing.

To show the inexpediency of the present bill, I shall endeavor to prove the expediency of the judicial law of the last session. In doing this it will be necessary to take a view of the leading features of the pre-existing system, to inquire into its defects, and to examine how far the evils complained of were remedied by the provisions of the late act. It is not my intention to enter into the details of the former system; it can be necessary only to state so much as will distinctly show its defects.

There existed, sir, a Supreme Court, having original cognizance in a few cases, but principally a court of appellate jurisdiction. This was the great national court of dernier resort. Before this tribunal, questions of unlimited magnitude and consequence, both of a civil and political nature, received their final decision; and I may be allowed to call it the national crucible of justice, in which the judgments of inferior courts were to be reduced to their elements and cleansed from every impurity. There was a Circuit Court, composed in each district of a judge of the Supreme Court and the district judge. This was the chief court of business both of a civil and criminal nature.

In each district a court was established for affairs of revenue, and of admiralty and maritime jurisdiction. It is not necessary for the purposes of the present argument to give a more extensive outline of the former plan of our Judiciary. We discover that the judges of the Supreme Court, in consequence of their composing a part of the circuit courts, were obliged to travel from one extremity to the other of this extensive country. In order to be in the court-house two months in the year they were forced to be upon the road six. The Supreme Court being the court of last resort, having final jurisdiction over questions of incalculable importance, ought certainly to be filled with men not only of probity, but of great talents, learning, patience, and experience. The union of these qualities is rarely, very rarely found in men who have not passed the meridian of life. My Lord Coke tells us no man is fit to be a judge until he has numbered the lucubrations of twenty years. Men of studious habits are seldom men of strong bodies. In the course of things it could not be expected that men fit to be judges of your Supreme Courts would be men capable of traversing the mountains and wildernesses of this extensive country? It was an essential and great defect in this court, that it required in men the combination of qualities, which it is a phenomenon to find united. It required that they should possess the learning and experience of years and the strength and activity of youth. I may say further, Mr. Chairman, that this court, from its constitution, tended to deterioration and not to improvement. Your judges, instead of being in their closets and increasing by reflection and study their stock of wisdom and knowledge, had not even the means of repairing the ordinary waste of time. Instead of becoming more learned and more capable, they would gradually lose the fruits of their former industry. Let me ask if this was not a vicious construction of a court of the highest authority and greatest importance in the nation? In a court from which no one had an appeal and to whom it belonged to

establish the leading principles of national jurisprudence?

In the constitution of this court, as a court of last resort, there was another essential defect. The appeals to this court are from the circuit courts. The circuit court consists of the district judge and a judge of the Supreme Court. In cases where the district judge is interested, where he has been counsel, and where he has decided in the court below, the judge of the Supreme Court alone composes the circuit court. What, then, is substantially the nature of this appellate jurisdiction? In truth and practice, the appeal is from a member of a court to the body of the same court. The circuit courts are but emanations of the Supreme Court. Cast your eyes upon the Supreme Court; you see it disappear, and its members afterwards arising in the shape of circuit judges. Behold the circuit judges; they vanish, and immediately you perceive the form of the Supreme Court appearing. There is, sir, a magic in this arrangement which is not friendly to justice. When the Supreme Court assembles, appeals come from the various circuits of the United States. There are appeals from the decisions of each judge. The judgments of each member pass in succession under the revision of the whole body. Will not a judge, while he is examining the sentence of a brother to-day, remember that that brother will sit in judgment upon his proceedings to-morrow? Are the members of a court thus constituted, free from all motive, exempt from all bias, which could even remotely influence opinion on the point of strict right? and yet let me ask emphatically, whether this court, being the court of final resort, should not be so constituted that the world should believe and every suitor be satisfied, that in weighing the justice of a cause, nothing entered the scales but its true merits?

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Your Supreme Court, sir, I have never considered as any thing more than the judges of assize sitting in bank. It is a system with which perhaps I should find no fault, if the judges sitting in bank did not exercise a final jurisdiction. Political institutions should be so calculated as not to depend upon the virtues, but to guard against the vices and weaknesses of men. It is possible that a judge of the Supreme Court would not be influenced by the *esprit du corps*, that he would neither be gratified by the affirmation, nor mortified by the reversal of his opinions; but this, sir, is estimating the strength and purity of human nature upon a possible, but not on its ordinary scale.

I believe, said Mr. B., that in practice the formation of the Supreme Court frustrated, in a great degree, the design of its institution. I believe that many suitors were discouraged from seeking a revision of the opinions of the circuit court, by a deep impression of the difficulties to be surmounted in obtaining the reversal of the judgment of a court from the brethren of the judge who pronounced the judgment. The benefit of a court of appeals, well constituted, is not confined to the mere act of reviewing the sentence of an inferior court; but is more extensively useful by the general operation of the knowledge of its existence upon inferior courts. The power of uncontrollable decision is of the most delicate and dangerous nature. When exercised in the courts, it is more formidable than by any other branch of our government. It is the Judiciary only which can reach the person, the property, or life of an individual. The exercise of their power is scattered over separate cases, and creates no common cause. The great safety under this power arises from the right of appeal. A sense of this right combines the reputation of the judge with the justice of the cause. In my opinion, it is a strong proof of the wisdom of a judicial system when few causes are carried into the court of the last resort. I would say, if it were not paradoxical, that the very existence of a court of appeals ought to destroy the occasion for it. The conscience of the judge, sir, will no doubt be a great check upon him in the unbounded field of discretion created by the uncertainty of law; but I should, in general cases, more rely upon the effect produced by his knowledge, that an inadvertent or designed abuse of power was liable to be corrected by a superior tribunal. A court of appellate jurisdiction, organized upon sound principles, should exist, though few causes arose for their decision; for it is surely better to have a court and no causes, than to have causes and no court. I now proceed, sir, to consider the defects which are plainly discernible, or which have been discovered by practice in the constitution of the circuit courts. These courts, from information which I have received, I apprehend were originally constructed upon a fallacious principle. I have heard it stated that the design of placing the judges of the Supreme Court in the circuit courts, was to establish uniform rules of decision throughout the United States. It was supposed that the presiding judges of the circuit courts, proceeding from the same body, would tend to identify the principles and rules of decision in the several districts. In practice, a contrary effect has been discovered to be produced by the peculiar organization of these courts. In practice we have found not only a want of uniformity of rule between the different districts, but no uniformity of rule in the same district. No doubt there was a uniformity in the decisions of the same judge; but as the same judge seldom sat twice successively in the same district, and sometimes not till after an interval of two or three years, his opinions were forgotten or reversed before he returned. The judges were not educated in the same school. The practice of the courts, the forms of proceeding, as well as the rules of property, are extremely various in the different quarters of the United States. The lawyers of the Eastern, the Middle, and Southern States, are scarcely professors of the same science. These courts were in a state of perpetual fluctuation. The successive terms gave you courts in the same district, as different from each other as those of Connecticut and Virginia. No system of practice could grow up, no certainty of rule could be established. The seeds sown in one term scarcely vegetated before they were trodden under foot. The condition of a suitor was terrible; the ground was always trembling under his feet. The opinion of a former judge was no precedent to his successor. Each considered himself bound to follow the light of his own understanding. To exemplify these remarks, I will take the liberty of stating a case which came under my own observation. An application before one judge was made to quash an attachment in favor of a subsequent execution creditor; the application was resisted upon two grounds, and the

learned judge, to whom the application was first made, expressing his opinion in support of both grounds, dismissed the motion. At the succeeding court, a different judge presided, and the application was renewed and answered upon the same grounds. The second learned judge was of opinion, that one point has no validity, but he considered the other sustainable, and was about also to dismiss the motion, but upon being pressed, at last consented to grant a rule to show cause. At the third term, a third learned judge was on the bench, and though the case was urged upon its former principles, he was of opinion, that both answers to the application were clearly insufficient, and accordingly quashed the attachment. When the opinions of his predecessors were cited, he replied, that every man was to be saved by his own faith.

Upon the opinion of one judge, a suitor would set out in a long course of proceedings, and after losing much time and wasting much money, he would be met by another judge, who would tell him he had mistaken his road, that he must return to the place from which he started, and pursue a different track. Thus it happened as to the chancery process to compel the appearance of a defendant. Some of the judges considered themselves bound by the rules in the English books, while others conceived that a power belonged to the court, upon the service of a subpœna, to make a short rule for the defendant to appear and answer, or that the bill should be taken *pro confesso*. A case of this kind occurred where much embarrassment was experienced. In the circuit court for the district of Pennsylvania, a bill in chancery was filed against a person, who then happened to be in that district, but whose place of residence was in the North-western Territory. The subpœna was served, but there was no answer nor appearance. The court to which the writ was returned, without difficulty, upon an application, granted a rule for the party to appear and answer at the expiration of a limited time, or that the bill be taken *pro confesso*. A personal service of this rule being necessary, the complainant was obliged to hire a messenger to travel more than a thousand miles to serve a copy of the rule. At the ensuing court, affidavit was made of the service, and a motion to make the rule absolute. The scene immediately changed, a new judge presided, and it was no longer the same court.

The authority was called for to grant such a rule. Was it warranted by any act of Congress, or by the practice of the State? It was answered there is no act of Congress—the State has no court of chancery. But this proceeding was instituted, and has been brought to its present stage at considerable expense, under the direction of this court. The judge knew of no power the court had to direct the proceeding, and he did not consider that the complainant could have a decree upon this bill without going through the long train of process found in the books of chancery practice. The complainant took this course, and at a future time was told by another judge, that he was incurring an unnecessary loss of time and money, and that a common rule would answer his purpose. I ask you, Mr. Chairman, if any system could be devised more likely to produce vexation and delay? Surely, sir, the law is uncertain enough in itself, and its paths sufficiently intricate and tedious, not to require that your suitors should be burdened with additional embarrassments by the organization of your courts.

The circuit is the principal court of civil and criminal business; the defects of this court were, therefore, most generally and sensibly felt. The high characters of the judges at first brought suitors into the courts; but the business was gradually declining, though causes belonging to the jurisdiction of the courts were multiplying, the continual oscillation of the court baffled all conjecture as to the correct course of the proceeding or the event of a cause. The law ceased to be a science. To advise your client it was less important to be skilled in the books than to be acquainted with the character of the judge who was to preside. When the term approached, the inquiry was, what judge are we to have? What is his character as a lawyer? Is he acquainted with chancery law? Is he a strict common lawyer, or a special pleader?

When the character of the judge was ascertained, gentlemen would then consider the nature of their causes, determine whether it was more advisable to use means to postpone or to bring them to a hearing.

The talents of the judges rather increased the evil, than afforded a corrective for the vicious constitution of these courts. They had not drawn their knowledge from the same sources. Their systems were different, and hence the character of the court more essentially changed at each successive term. These difficulties and embarrassments banished suitors from the court, and without more than a common motive, recourse was seldom had to the Federal tribunals.

I have ever considered it, also, as a defect in this court, that it was composed of judges of the highest and lowest grades. This, sir, was an unnatural association; the members of the court stood on ground too unequal to allow the firm assertion of his opinion to the district judge. Instead of being elevated, he felt himself degraded by a seat upon the bench of this court. In the district court he was every thing, in the circuit court he was nothing. Sometimes he was obliged to leave his seat, while his associate reviewed the judgment which he had given in the court below. In all cases he was sensible that the sentences in the court in which he was, were subject to the revision and control of a superior jurisdiction where he had no influence, but the authority of which was shared by the judge with whom he was acting. No doubt in some instances the district judge was an efficient member of this court, but this never arose from the nature of the system, but from the personal character of the man. I have yet, Mr. Chairman, another fault to find with the ancient establishment of the circuit courts. They consisted only of two judges, and sometimes of one. The number was too small, considering the extent and importance of the jurisdiction of the court. Will you remember, sir, that they held the power of life and death, without appeal? That their judgments were final over sums of two thousand dollars, and their original jurisdiction restrained by no limits of value, and that this was the court to which appeals were carried from the district court.

I have often heard, sir, that in a multitude of counsel there was wisdom, and if the converse of the maxim be equally true, this court must have been very deficient. When we saw a single judge reversing the judgment of the district court, the objection was most striking, but the court never had the weight which it ought to have possessed, and would have enjoyed had it been composed of more members. But two judges belonged to the court, and inconvenience was sometimes felt from a division of their opinions. And this inconvenience was but poorly obviated by the provision of the law that in such cases the cause should be continued to the succeeding term, and receive its decision from the opinion of the judge who should then preside.

I do not pretend, Mr. Chairman, to have enumerated all the defects which belonged to the former judicial system. But I trust those which I have pointed out, in the minds of candid men, will justify the attempt of the Legislature to revise that system, and to make a fairer experiment of that part of the plan of our constitution which regards the Judicial power. The defects, sir, to which I have alluded, had been a long time felt and often spoken of. Remedies had frequently been proposed. I have known the subject brought forward in Congress or agitated in private, ever since I have had the honor of a seat upon this floor. I believe, sir, a great and just deference for the author of the ancient scheme prevented any innovation upon its material principles; there was no gentleman who felt the deference more than myself, nor should I have ever hazarded a change upon speculative opinion. But practice had discovered defects which might well escape the most discerning mind in planning the theory. The original system could not be more than experiment; it was built upon no experience. It was the first application of principles to a new state of things. The first judicial law displays great ability, and it is no disparagement of the author to say its plan is not perfect.

I know, sir, that some have said, and perhaps not a few have believed, that the new system was introduced not so much with a view to its improvement of the old, as to the places which it provided for the friends of the Administration. This is a calumny so notoriously false, and so humble, as not to require nor to deserve an answer upon this floor. It cannot be supposed that the paltry object of providing for sixteen unknown men could have ever offered an inducement to a great party basely to violate their duty, meanly to sacrifice their character, and foolishly to forego all future hopes.

I now come, Mr. Chairman, to examine the changes which were made by the late law. This subject has not been correctly understood. It has every where been erroneously represented. I have heard much said about the additional courts created by the act of last session. I perceive them spoken of in the President's Message. In the face of this high authority, I undertake to state, that no additional court was established by that law. Under the former system there was one Supreme Court, and there is but one now. There were seventeen district courts, and there are no more now. There was a circuit court held in each district, and such is the case at present. Some of the district judges are directed to hold their courts at new places, but there is still in each district but one district court. What, sir, has been done? The unnatural alliance between the Supreme and district courts has been severed, but the jurisdiction of both these courts remains untouched. The power or authority of neither of them has been augmented or diminished. The jurisdiction of the circuit court has been extended to the cognizance of debts of four hundred dollars, and this is the only material change in the power of that court. The chief operation of the late law is a new organization of the circuit courts. To avoid the evils of the former plan, it became necessary to create a new corps of judges. It was considered that the Supreme Court ought to be stationary, and to have no connection with the judges over whose sentences they had an appellate jurisdiction.

To have formed a circuit court out of the district judges, would have allowed no court of appeal from the district court, except the Supreme Court, which would have been attended with great inconvenience. But this scheme was opposed by a still greater difficulty. In many districts the duties of the judge require a daily attention. In all of them business of great importance may on unexpected occurrences require his presence.

This plan was thought of; it was well examined and finally rejected, in consequence of strong objections to which it was liable. Nothing therefore remained but to compose the circuit court of judges distinct from those of the other courts. Admitting the propriety of excluding from this court the judges of the Supreme and district courts, I think the late Congress cannot be accused of any wanton expense, nor even of a neglect of economy in the new establishment. This extensive country has been divided into six circuits, and three judges appointed for each circuit. Most of the judges have twice a year to attend a court in three States, and there is not one of them who has not to travel further, and who in time will not have more labor to perform than any judge of the State courts. When we call to mind that the jurisdiction of this court reaches the life of the citizen, and that in civil cases its judgments are final to a large amount, certainly it will not be said that it ought to have been composed of less than three judges. One was surely not enough, and if it had been doubtful whether two were not sufficient, the inconvenience which would have frequently arisen from an equal division of opinion, justifies the provision which secures a determination in all cases.

It was, additionally, very material to place on the bench of this court a judge from each State, as the court was in general bound to conform to the law and the practice of the several States.

I trust, sir, the committee are satisfied that the number of judges which compose the circuit court is not too great, and that the Legislature would have been extremely culpable to have committed the high powers of this court to fewer hands. Let me now ask, if the compensation allowed to these judges is extravagant? It is little more than half the allowance made to the judges of the Supreme Court. It is but a small proportion of the ordinary practice of those gentlemen of the

bar, who are fit, and to whom we ought to look to fill the places. You have given a salary of two thousand dollars. The puisne judges of Pennsylvania, I believe, have more. When you deduct the expenses of the office, you will leave but a moderate compensation for service, but a scanty provision for a family. When, Mr. Chairman, gentlemen coolly consider the amendments of the late law, I flatter myself their candor will at least admit that the present modification was fairly designed to meet and remedy the evils of the old system.

The Supreme Court has been rendered stationary. Men of age, of learning, and of experience, are now capable of holding a seat on the bench; they have time to mature their opinions in causes on which they are called to decide, and they have leisure to devote to their books, and to augment their store of knowledge. It was our hope, by the present establishment of the court, to render it the future pride, and honor, and safety of the nation. It is this tribunal which must stamp abroad the judicial character of our country. It is here that ambassadors and foreign agents resort for justice; and it belongs to this high court to decide finally, not only on controversies of unlimited value between individuals, and on the more important collision of State pretensions, but also upon the validity of the laws of the States, and of this Government. Will it be contended that such great trusts ought to be reposed in feeble or incapable hands? It has been asserted that this court will not have business to employ it. The assertion is supported neither by what is past, nor by what is likely to happen. During the present session of Congress, at their last term, the court was fully employed for two weeks in the daily hearing of causes. But its business must increase. There is no longer that restraint upon appeals from the circuit court, which was imposed by the authority of the judge of the court to which the appeal was to be carried; no longer will the apprehension of a secret unavoidable bias in favor of the decision of a member of their own body, shake the confidence of a suitor, in resorting to this court, who thinks that justice has not been done to him in the court below. The progressive increase of the wealth and population of the country, will unavoidably swell the business of the court. But there is a more certain and unfailing source of employment, which will arise in the appeals from the courts of the National Territory. From the courts of original cognizance in this Territory, it affords the only appellate jurisdiction. If gentlemen will look to the state of property of a vast amount in this city, they must be satisfied that the Supreme Court will have enough to do for the money which is paid them.

Mr. RANDOLPH said that he did not rise for the purpose of assuming the gauntlet which had been so proudly thrown by the Goliath of the adverse party; not but that he believed even his feeble powers, armed with the simple weapon of truth, a sling and a stone, capable of prostrating on the floor that gigantic boaster, armed cap-à-pie as he was; but that he was impelled by the desire to rescue from misrepresentation the arguments of his colleague, (Mr. GILES,) who was now absent during indisposition. That absence, said Mr. R., is a subject of peculiar regret to me, not only because I could have wished his vindication to have devolved on abler hands, but because he had to-day lost the triumph which, yesterday, he could not have failed to enjoy; that of seeing his opponent reduced to the wretched expedient of perverting and mutilating his arguments through inability to meet and answer them. Mr. R. said, that this was the strongest proof which could be given of inadequacy to refute any position. He, therefore, left to the gentleman the victory which he had obtained over his own arguments; but, while he felt no disposition to disturb him in this enjoyment, he hoped he should be permitted to correct some of the misstatements which had been made of his colleague's observations.

In the view which he had taken of the conduct of our predecessors, in the chain of whose measures the law now proposed to be repealed formed an important link, the funding of the debt of the United States, and the assumption of those of the individual States, were comprehended. An attempt is made to construe this disapprobation into a design of violating the public faith. Mr. R. denied that one syllable had fallen from his colleague, indicative of a right, or disposition on his part, to withhold the payment of any public engagements. Against these destructive measures his colleague had raised his voice; against the fatal and absurd maxim, that a public debt was a public blessing, he had indeed protested; but not a word escaped his lips, because no such sentiment lurked in his heart, which could be construed into a declaration that the present Legislature possessed the same power over the engagements of former Legislatures which they possessed over ordinary laws; that of modifying or abrogating them with the same freedom which had been exercised in their establishment. Since the gentleman had betrayed such peculiar sensibility on the subject of the debt, Mr. R. relied on his support, when a measure should be brought forward for its final and rapid extinguishment, not by a sponge, but by a fair reimbursement of one hundred cents for every dollar due.

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On other topics, the Algerine depredations, Indian war, &c., it might as easily be shown that the representation had been equally unfair. He should not dwell upon them, because they were less calculated to make the unfavorable impression on the public mind, which had been attempted on the subject of the debt. He would dismiss them with a single remark: the uses to which these incidents were applied, and not the events themselves, formed the subject of his colleague's animadversions.

But to the long catalogue of unpopular acts which have deprived their authors of the public confidence, the gentleman tells us, he and his friends were "goaded" by the clamor of their opponents. He solemnly assures us, that in the adoption of those measures they clearly foresaw the downfall of their power; but impressed with a conviction that they were essential to the public good, and disdaining all considerations of a personal nature, they nobly sacrificed their political existence on the altar of the general welfare; and we are called upon now to revere in them the self-immolated victims at the shrine of patriotism. These are, indeed, lofty pretensions; and although I shall not peremptorily deny, in this age of infidelity, I may be permitted to doubt

them; for I call upon this committee to decide whether, in this day's discussion, the gentleman has evinced that purity of heart, or that elevation of sentiment, which could justify me in clothing him with the attributes of Curtius or of the Decii?

I wish especially to know, whether the common law of libels which attaches to this constitution, be the doctrine laid down by Lord Mansfield, or that which has immortalized Mr. Fox? And whether the jurisdiction thus usurped over the press, in defiance of an express amendatory clause, which must be construed to annul every previous provision, if any such there be, which comes within its purview, be an example adduced to illustrate the position, which I certainly shall never contest, that "what the constitution does not permit to be done by direct means, cannot, constitutionally, be indirectly effected?" But to reconcile us to this usurpation, we are informed, that the principles of the common law are favorable only to liberty; that they neither have been, nor can be enlisted in the cause of persecution. If I did not misunderstand the gentleman, he said that no prosecution had occurred under that law. He has therefore never heard of the case of Luther Baldwin. I speak of the New Jersey case; nor that of Williams. Other instances, I learn from high authority, have taken place in Vermont.

Mr. R. said he was unhackneyed in the ways of majorities; his experience had been very limited; but was he to conclude, from these observations, that it was the common law, the uniform usage heretofore of this Government, for this House to be the mere instrument for effecting the Executive will, a Chamber for enregistering Presidential edicts? It is said, that the document on this subject was one which the Executive had no right to lay before the House. When did the right of the President to recommend modifications of the Judiciary system cease? Such recommendations had heretofore formed a prominent feature in two successive Executive communications made at the commencement of two successive sessions of Congress. Did the right of the Executive to recommend, and of Congress to act, cease at the precise period when the faultless model of the last session was perfected? Mr. R. said, that the gentleman from Delaware had taken such a range, and thrown out such a vast deal of matter, that, in attempting to reply to some of his observations, he was necessarily led into many desultory remarks. The present system, it seems, was necessary, from the inevitable corporeal infirmity of the judges: the unavoidable effect of the tedious probation indispensable to that venerable station.

Let us compare the former practice with the present theory. The judge of one of the two districts into which Virginia had been divided, was contemporary with him at school. He is certainly neither an infirm nor hoary sage. His associate from Maryland had been an active and gallant partisan at the siege of Pensacola, during our Revolutionary war: not contending, however, under those banners where you would have expected to find a man who occupies so dignified a station under the Government of the United States; but fighting the battles of his King. Bravely, yet, alas! unsuccessfully contending against the spirit of insubordination and jacobinism which threatens to sweep from the earth every thing valuable to man, against which the gentleman from Delaware is also eager to enter the lists. The selections which have been made from either House of Congress seem to have had as little reference to age and experience, which are said to be indispensable to the Judicial character. Upon a subject connected with those appointments, we have been told that the Executive had a right to presume a vacancy in all cases where a judge of an inferior tribunal had been appointed to a seat on the bench of a superior court; and that the new office vests, not at the time when the judge is notified of his promotion, nor at the date of his acceptance, but from the date of his commission. Mr. R. said, that he certainly did not mean to contend with the gentleman from Delaware on points of law, yet he would put a question to that gentleman. It will readily be conceded, that the vacating of the former office is the condition of the acceptance of the latter. Suppose a judge, after the date of his new commission, but prior to his notification or acceptance thereof, perform a Judicial act, was that act, therefore, invalid? Could his successor, on the receipt of his commission, exercise the functions of judge, prior to the resignation of the former incumbent? Could any office be at the same time in the possession of two persons? Did not this doctrine imply a right on part of the Government to anticipate the resignation of any judge, to compel his assent to an act vacating his office? The new commission, under these circumstances, either did or did not give a claim to its possessor on the office. If it did not, the Executive had a right to withhold it. If it did, a judge may be expelled from office, without his consent, and provided, at any time afterwards he shall acquiesce, the expulsion is legal. Besides, by what authority does a member of this House hold his seat under an election previous to his appointment of district judge of North Carolina? For this office a commission was issued, as I am credibly informed. But, sir, we shall be told, that the manner in which this affair was transacted ought not to affect our decision. It is with me an irrefragable proof of the inexpediency of the law, and of course conclusive evidence of the expediency of its repeal.

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But the constitution is said to forbid it. And here permit me to express my satisfaction, that gentlemen have agreed to construe the constitution by the rules of common sense. This mode is better adapted to the capacity of unprofessional men, and will preclude the gentleman from arrogating to himself, and half a dozen other characters in this committee, the sole right of expounding that instrument, as he had done in the case of the law which is proposed to be repealed. Indeed, as one of those who would be unwilling to devolve upon that gentleman the high priesthood of the constitution, and patiently submit to technical expositions which I might not even comprehend, I am peculiarly pleased that we are invited to exercise our understandings in the construction of this instrument. A precedent, said to be quite analogous, has been adduced—the decision of the judges of Virginia, on a similar question. A pamphlet, entitled "A Friend to the Constitution," has been quoted. Public opinion informs me that this is the production of the pen of a gentleman who holds a pre-eminent station on the Federal bench. Am I so to consider it? If this be understood, it is entitled to high respect; the *facts*, at least, must be unquestionable.

The courts of Virginia consisted of one general court of common law; a court of chancery, composed of three judges; and a court of admiralty. The judges of all those courts held their office during good behavior; and did, by law, constitute a court of appeals. The general court becoming manifestly incompetent to the extensive duties assigned to it, a system of circuit courts was adopted in 1787, and the judges of the court of appeals were appointed to ride the circuits. This law the judges pronounced unconstitutional, and agreed, unanimously, to remonstrate against it. After lamenting the necessity of deciding between the constitution and the law, and that, in a case personally interesting to themselves, they say, "on this view of the subject, the following alternatives presented themselves; either to decide the question, or resign their offices. The latter would have been their choice, if they could have considered those questions as affecting their individual interests only." Yes, sir, and such was the character of those men, that none doubted the sincerity of this declaration. They then go on to declare, that the Legislature have no right even to increase their duties, by a modification of the courts; a privilege for which no one here has contended. In respect, much more, it is believed, to the characters of those venerable men, than to this opinion, the Legislature did not enforce the new regulations. The law was new-modelled, a separate court of appeals established, the judges of which were to be elected by joint ballot, in conformity with the constitution. New members were added to the general court, and it was declared to be their duty to ride the circuits. The judges of chancery, of the general court, and court of admiralty, who had not been elected, in pursuance of the constitution, judges of appeals, but on whom that duty was imposed by law, were relieved from the further discharge of it. In this arrangement several of the judges were understood to have been consulted; and on the ballot the six senior judges were elected, five into the court of appeals, and the sixth in the court of chancery. Nevertheless, against this law the judges also protested, as an invasion of the Judiciary establishment, denying the right of the Legislature to deprive them of office in any other mode than is pointed out in the constitution, (impeachment;) but to make way for the present salutary system, they do, in their mere free will, resign their appointments as judges of the court of appeals, and as they do not hold any separate commission for that office, which might be returned, they do order the same to be recorded.

Now, sir, I shall not contend, as I certainly might, and with great reason, that the practice of Virginia must be considered as settling the constitutional doctrine of the State, the opinions of individuals, however enlightened and respectable, notwithstanding; under which practice two chancellors have been removed from their office of judges in chancery, as well as of appeals, and the judges of the general court and court of admiralty also divested of their seats on the bench of the court of appeals, although a court of appeals was supposed necessary, and was retained in the new system; nor shall I insist on the disparity between the stability of the Judicial branch of Government in the eye of the Constitution of Virginia, and that of the United States, respectively, as surely I might. For the constitution of Virginia has a retrospect to pre-existing Judicial establishments, which experience had tested, which were allowed to be beneficial, and which it is contended were sanctioned by it. That of the United States, formed when the Confederacy had no such establishments, is to be created, from time to time: in other words, to be modified, as experience shall point out their defects—this power being devolved on a body constituted by express *unalterable* provisions. No, sir, I shall not dilate upon these forcible topics; I will concede, for argument sake, that the doctrine contended for by the judges of Virginia, was the true constitutional doctrine, and will apply it to the bill on your table, having first applied it to the act on which it is intended to operate. Previous to the existence of that act, the duty of judge of the circuit court was performed by the judges of the Supreme Court, who constituted a court of appeals, and by the judges of the respective districts. These were judges of the circuit court to every intent and purpose, as completely as the judges of Virginia were judges of appeals. By the operation of the law of the last session, they have been divested of this *office*, and other persons have been appointed to it. Much stress is laid, much ingenuity exercised to make metaphysical distinctions between the court and the office. I will grant all that gentlemen contend for, that there is a wide distinction. Does it affect the case? Does it alter the fact? The late circuit courts were not only abolished—the persons holding the office of judge of those courts no longer hold it; they have neither been impeached, nor have they resigned. They have not even accepted any new appointment inconsistent with it, and by which it became vacant. The function of judge of the circuit court does or does not constitute an office. If it does, then the judges of the supreme and district courts have been deprived of their offices, (the discharge of whose duties, be it remembered, constitutes no small part of the consideration for which they receive their salaries.) If it does not, then the circuit judges are not now about to be deprived of their offices. On the passage of the law of last session, did we hear any protest against its unconstitutionality from the Supreme or district courts? Of any resignations of the office of judge of the circuit court, in order "that a salutary system might take effect?" And yet, sir, is not that office as distinct from that of Supreme or district judge, as the office of judge of appeals in Virginia is from that of judge of the general court, chancery, or admiralty? Are not the jurisdictions of those courts separate and distinct? Both never having original jurisdiction of the same subjects; and an appeal lying from the inferior to the superior tribunal, as in Virginia, although the officers of those tribunals may be the same individuals? What, then, is the difference between taking the office of appellate jurisdiction from the judge who possessed original jurisdiction, or taking the office of original jurisdiction from the appellate judge? How is the independence of the judge more affected by the one act than by the other?

To prove the unconstitutionality of this bill, then, by a recurrence to the doctrine of the judiciary of Virginia, is to prove the unconstitutionality of the law of which it will effect the repeal. And no argument has been, or, in my poor opinion, can be, adduced, to prove the unconstitutionality of the one, which will not equally apply to the other. No, sir, gentlemen are precluded by their own



act from assuming the ground of the judges of Virginia; they are obliged to concede that we have the power, because they have already exercised it, of modifying the courts, and here they concede the question. They tell you that this, however, must, to be constitutional, be a "bona fide" modification. It becomes them to prove, then, that this is a *mala fide* modification.

Gentlemen have not, they cannot meet the distinction between removing the judges from office for the purpose of putting in another person, and abolishing an office because it is useless or oppressive. Suppose the collectors of your taxes held their offices by the tenure of good behavior, would the abolition of your taxes have been an infraction of that tenure? Or would you be bound to retain them, lest it should infringe a private right? If the repeal of the taxes would be an infringement of that tenure, and therefore unconstitutional, could you ring all the changes upon the several duties on stamps, carriages, stills, &c., and, because you had retained the man and any one of these offices without diminishing his emoluments, abolish the others? Would not this be to impair the tenure of the office which was abolished, or to which another officer might have been appointed by a new regulation? Have not the judges, in the same manner, been deprived of one of their offices? And is not the tenure as completely impaired thereby, as if the other had been taken away also? Although it will be granted that the *tenant* is not so much affected, since, with one office, he has the salary formerly attached to both.

I agree that the constitution is a limited grant of power, and that none of its general phrases are to be construed into an extension of that grant. I am free to declare, that if the intent of this bill is to get rid of the judges, it is a perversion of your power to a base purpose; it is an unconstitutional act. If, on the contrary, it aims not at the displacing of one set of men, from whom you differ in political opinion, with a view to introduce others, but at the general good by abolishing useless offices, it is a constitutional act. The *quo animo* determines the nature of this act, as it determines the innocence or guilt of other acts. But we are told that this is to declare the Judiciary, which the constitution has attempted to fortify against the other branches of Government, dependent on the will of the Legislature, whose discretion alone is to limit their encroachments. Whilst I contend that the Legislature possess this discretion, I am sensible of the delicacy with which it is to be used. It is like the power of impeachment, or of declaring war, to be exercised under high responsibility. But the power is denied since its exercise will enable flagitious men to overturn the Judiciary, in order to put their creatures into office, and to wreak their vengeance on those who have become obnoxious by their merit. Yet the gentleman expressly says, that arguments drawn from a supposition of extreme political depravity, prove nothing; that every Government pre-supposes a certain degree of honesty in its rulers, and that to argue from extreme cases is totally inadmissible. Yet the whole of this argument is founded on the supposition of a total want of principle in the Legislature and Executive. In other words, arguments drawn from the hypothesis are irresistible when urged in favor of that gentleman's opinion; when they militate against him, they are totally inapplicable. It is said that the bill on your table cannot constitutionally be passed, because unprincipled men will pervert the power to the basest of purposes; that, hereafter, we may expect a revolution on the bench of justice, on every change of party, and the politics of the litigants, not the merits of the case, are to govern its decisions. The Judiciary is declared to be the guardian of the constitution against infraction, and the protection of the citizen, as well against Legislative as Executive oppression. Hence the necessity of an equal independence of both. For it is declared to be an absurdity, that we should possess the power of controlling a department of Government which has the right of checking us; since thereby that check may be either impaired or annihilated. This is a new doctrine of check and balance, according to which the constitution has unwisely given to an infant Legislature the power of impeaching their guardians, the judges. Apply this theory to the reciprocal control of the two branches of the Legislature over each other and the Executive, and of the Executive over them. But, sir, this law cannot be passed, because the character of the bench is to be given to it by the Legislature, to the entire prostration of its independence and impartiality. It will be conceded, that measures, such as have been portrayed, will never be taken, unless the sentiment of the ruling party is ready to support them. Although gentlemen contend, that the office of judge cannot be abolished, they are not hardy enough to deny that it may be created. Where then, sir, is the check, supposing such a state of things as the gentleman has imagined, (and which he has also declared cannot be conceived,) which shall prevent unprincipled men from effecting the same object by increasing the number of judges, so as to overrule, by their creatures, the decisions of the courts? Would not public opinion be as ready to sanction the one as the other of these detestable acts? Would not the same evil which has excited such apprehension in the minds of gentlemen, be thus effected by means even more injurious than those which they have specified? Without any breach of the constitution an unprincipled faction may effect the end which is so much apprehended from the measure now contemplated to be adopted. I might add, that, when the public sentiment becomes thus corrupt, the ties of any constitution will be found too feeble to control the vengeful ambition of a triumphant faction. The rejection of this bill does not secure the point which has furnished matter for so much declamation. Its friends are represented as grasping at power not devolved upon them by the constitution, which hereafter is to be made the instrument of destroying every judicial office, for the purpose of reviving them and filling the places with their partisans.

I have long been in the habit of attending to the arguments of the gentleman from Delaware, and I have generally found, in their converse, a ready touchstone, the test of which they are rarely calculated to withstand. If you are precluded from passing this law, lest depraved men make it a precedent to destroy the independence of your Judiciary, do you not concede that a desperate faction, finding themselves about to be dismissed from the confidence of their country, may pervert the power of erecting courts, to provide to an extent for their adherents and themselves?

and that however flagrant that abuse of power, it is remediless, and must be submitted to? Will not the history of all Governments warrant the assertion, that the creation of new and unnecessary offices, as a provision for political partisans, is an evil more to be dreaded than the abolition of useless ones? Is not an abuse of power more to be dreaded from those who have lost the public confidence than from those whose interest it will be to cultivate and retain it? And does not the doctrine of our opponents prove that, at every change of administration, the number of your judges are probably to be doubled? Does it not involve the absurdity that, in spite of all constitutional prohibitions, Congress may exercise the power of creating an indefinite number of placemen, who are to be maintained through life at the expense of the community? But, when these cases are cited, you are gravely told that they suppose a degree of political depravity which puts an end to all argument. Here, sir, permit me to state an important difference of opinion between the two sides of this House. We are accused of an ambitious usurpation of power; of a design to destroy a great department of Government, because it thwarts our views, and of a lawless thirst of self-aggrandizement which no consideration can restrain. Let us not be amused by words. Let us attend to facts. They will show who are contending for unlimited, and who for limited power. The opponents of this bill contend that they did possess the power of creating offices to an indefinite amount; which, when created, were beyond the control of the succeeding Legislature. They, of course, contend for the existence of such a power in the present Legislature, for whose exercise there is no security but their self-respect. In other words, that if the present majority should incur the suspicion of the people, they may, as soon as there is any indication of their having forfeited the public confidence, on the signal of their dismissal from their present station, make ample and irrevocable provision for themselves and their adherents, by the creation of an adequate number of judicial offices. Now, sir, this is a power which we reject, though it is insisted that we possess it. We deny that such an authority does exist in us. We assert that we are not clothed with the tremendous power of erecting, in defiance of the whole spirit and express letter of the constitution, a vast judicial aristocracy over the heads of our fellow-citizens, on whose labor it is to prey. Who, then, are, in reality, the advocates of a limited authority, and who are the champions of a dangerous and uncontrollable power? In my estimation, the wisest prayer that ever was composed is that which deprecates the being led into temptation. I have no wish to be exposed myself, nor to see my friends exposed, to the dangerous allurements which the adverse doctrine holds out. Do gentlemen themselves think that the persons, whom I see around me, ought to be trusted with such powers? Figure to yourselves a set of men, whose incapacity or want of principle has brought on them the odium of their country, receiving, in the month of December, the solemn warning, that on the 4th of March following, they are to be dismissed from the helm of Government; establish the doctrine now contended for, and what may we not expect? Yes, sir, the doctrine advanced by our opponents is that of usurpation and ambition. It denies the existence of one power by establishing another infinitely more dangerous; and this you are told is to protect, through the organ of an independent judiciary, the vanquished party from the persecution of their antagonists, although it has been shown that, by increasing the number of judges, any tone whatever may be given to the bench.

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The theory for which gentlemen contend seems to me far-fetched and overstrained. A mighty enginery is set in motion, which to all good purposes is ineffectual, although formidable in the perpetration of mischief. If, however, the people should be of a different opinion, I trust that at the next election they will apply the constitutional corrective. That is the true check; every other check is at variance with the principle, that a free people are capable of self-government.

But, sir, if you pass the law, the judges are to put their veto upon it by declaring it unconstitutional. Here is a new power, of a dangerous and uncontrollable nature, contended for. The decision of a constitutional question must rest somewhere. Shall it be confided to men immediately responsible to the people, or to those who are irresponsible? for the responsibility by impeachment is little less than a name. From whom is a corrupt decision most to be feared? To me it appears that the power which has the right of passing, without appeal, on the validity of your laws, is your sovereign. But an extreme case is put; a bill of attainder is passed; are the judges to support the constitution or the law? Shall they obey God or Mammon? Yet you cannot argue from such cases. But, sir, are we not as deeply interested in the true exposition of the constitution, as the judges can be? With all the deference to their talents, is not Congress as capable of forming a correct opinion as they are? Are not its members acting under a responsibility to public opinion, which can and will check their aberrations from duty? Let a case, not an imaginary one, be stated: Congress violates the constitution by fettering the press; the judicial corrective is applied to; far from protecting the liberty of the citizen, or the letter of the constitution, you find them outdoing the Legislature in zeal; pressing the common law of England to their service where the sedition law did not apply. Suppose your reliance had been altogether on this broken staff, and not on the elective principle? Your press might have been enchained till doomsday, your citizens incarcerated for life, and where is your remedy? But if the construction of the constitution is left with us, there are no longer limits to our power, and this would be true if an appeal did not lie through the elections, from us to the nation, to whom alone, and not a few privileged individuals, it belongs to decide, in the last resort, on the constitution. Gentlemen tell us that our doctrine will carry the people to the gallows if they suffer themselves to be misled into the belief that the judges are not the expositors of the constitution. Their practice has carried the people to infamous punishment, to fine and imprisonment; and had they affixed the penalty of death to their unconstitutional laws, judges would not have been wanting to conduct them to the gibbet.

Mr. MACON.—As no other member at present seems disposed to take the floor, I will ask the attention of the committee for a few minutes. I have attended with the greatest patience and

diligence, to the arguments of gentlemen who oppose the bill as unconstitutional; and had they produced a single doubt in my mind on the point of constitutionality, I should most certainly have voted with them against the bill on your table; but I can with truth say, I have not heard any argument which has in the least changed my first conviction, that we have a constitutional right to pass it.

I should not, I believe, have spoken on this question, had not my colleagues, who differ with me in opinion, thought proper to bring into view a vote of the Legislature of the State, instructing her Senators and recommending it to the Representatives to use their best endeavors to obtain a repeal of the last Judiciary act. On this resolution of the State Legislature, they made some extraordinary remarks, which I mean to notice; but first permit me to inform the committee, that it has been the constant practice of the Legislature of that State, from the commencement of the General Government to the present day, to instruct her Senators, and to recommend to her Representatives, to pursue such measures on all the great national questions that have occurred, as the Legislature judged the interest of the State required, and this proceeding has never been considered improper. I shall endeavor to answer the gentlemen in the order they spoke, beginning with my colleague (Mr. HENDERSON,) who was first on the floor. If I understand him rightly, (and if I do not he will correct me, because it is not my desire to misstate a single word,) he said that the Legislature of the State might have adopted the resolutions in consequence of the Message of the President; but, upon examination of the dates, this will be found to be impossible. The message could not have reached the Legislature before the question on the resolutions was taken and decided; and on no important question was that body ever more unanimous; and though my colleague has said the question was there viewed but on one side, and decided in a manner *ex parte*, yet I will be bold to say, if there were any members in that Legislature who thought on this subject as he does, he enjoyed the same right there that my colleague does here, to deliver his sentiments.

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Knowing as I do the great talents and integrity of my colleague, and I believe no one on this floor knows them better, I was surprised when he charged others with being under the influence of passion, when his conduct must convince them that he was guided by the very passion which he attributed to others. He quoted the Constitution of North Carolina, let us examine it, and see whether his argument can be aided by the practice under that instrument. The thirteenth article is in the following words: that "the General Assembly shall, by joint ballot of both Houses, appoint judges of the supreme court of law and of equity, judges of admiralty, and attorney general, who shall be commissioned by the Governor, and hold their offices during good behavior." On this clause he noted the independence of the State Judiciary; and they are independent so long as the law creating their office is in force, and no longer; and it is worthy of notice, that in this section, no mention is made of salary, and yet the judges have been considered as independent as the Judges of the United States. Soon after the adoption of the constitution, the Legislature of the States established courts in conformity thereto; first county courts, and then superior, and afterwards, by a Legislative act, without electing a single new judge, gave the superior courts the additional jurisdiction of a court of equity, and never a solitary complaint, that this law was unconstitutional; and it must be acknowledged, that if you can make a court of law also a court of equity, by a Legislative act, you can by the same power take it away; and what becomes, in this case, of the commission which is to be held during good behavior? It is, according to my construction, to last no longer than the law which created the office remains in force, and this is long enough to make the judges independent. As to the salary of the Judges of North Carolina, the twenty-first section of the constitution says, "they shall have adequate salaries during their continuance in office," and yet with this clear right in the Legislature, to lessen as well as to add to their salaries, the judges, it is agreed, are independent. My colleague well knows, that many attempts have been made to deprive the superior courts of exercising any jurisdiction in cases of equity; and he also knows, that attempts have been made to establish a court of appeals, which should revise the decisions of the superior courts now in being; and by the constitution of the State, any supreme court may, on presentment of a grand jury, try the governor for maladministration, &c., and I believe the present courts are authorized to do this. I have not at this place been able to see the act which gives this authority; but no doubt is entertained of the fact.

It is clear, then, that in North Carolina, all parties have thought, that "during good behavior," only meant so long as the office existed; because, by establishing a court of appeals, the judges now in being would not be supreme judges, and in all these various attempts, no one ever charged either of them to be unconstitutional. On examination of the Constitution of North Carolina, it will be found that it makes provision for the appointment of other officers by the Legislature, but says nothing about adequate compensation, except in the section last read, and if you take the office away, what is an adequate compensation for doing nothing? Another proof might be drawn from the Constitution of North Carolina, in favor of the opinion I hold, which is taken from the twenty-ninth section, that "no Judge of a Supreme Court shall have a seat in the General Assembly," and my colleague knows, that the present judges could not hold a seat there, because they are supreme judges. And he also knows, that no one ever doubted the constitutional right of the Legislature to establish the courts before mentioned; and it seems to me this, on his construction, would be a violation of the constitution, because, having once made a Supreme Court, it must always remain so, to secure, what he calls, the independence of the judges.

Sir, I was astonished when my colleague said, that the judges should hold their offices, whether useful or not, and that their independence was necessary, as he emphatically said, to protect the people against their worst enemies, themselves; their usefulness is the only true test of their necessity, and if there is no use for them, they ought not to be continued. I will here ask my

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colleague whether, since the year 1783, he has heard of any disorder in the State we represent, or whether any act has been done there which can warrant or justify such an opinion, that "it is necessary to have judges to protect the people from their worst enemies, themselves." I had thought we, the people, formed this Government, and might be trusted with it. My colleague never could have uttered this sentence, had he not been governed by that passion which he supposes governs others. It is true that we are not a rich and wealthy State, but it is equally true, that there is no State in the Union more attached to order and law; and my colleague himself would not say that it was necessary to have judges for this purpose in the country we represent; the people there behave decently without having Federal judges, or standing armies, to protect them against themselves. Is it not strange, that the people should have sense enough to pay their taxes without being driven to it by superior force, and not have sense enough to take care of themselves without this new Judiciary? They certainly contrived to do this before the act establishing this Judiciary passed.

Another expression of his equally astonished me; he said, that on the 7th day of December, a spirit which had spread discord and destruction in other countries, made its entry into this House. What! are we to be told, because at the last election the people thought proper to change some of their representatives, and to put out some of those who had heretofore been in power, and to put others in power of different opinions, that a destroying spirit entered into all the public functionaries? For what, sir, are elections held, if it be not that the people should change their representatives when they do not like them? And are we to be told from the house-tops, that the only use of elections is to promote, not public good, but public mischief? We are also told, that this constitution was to be destroyed by the all-devouring energies of its enemies. Who are its enemies? We are not, nor do I think there are any in this House; but there are parties as well in this House as out of doors, and no man wishes more sincerely than I do, that they were amalgamated, that we might get rid of all party gall, and free ourselves from improper reflections hereafter. But by what energy is the constitution to be destroyed? The only energy heretofore used, and which made the change so much complained of, was the energy of election. Sir, I scarcely know what to say when I hear such uncommon sentiments uttered from a head so correct and a heart so pure; it is the effect of a passion of which he is unconscious. Again he says, if you repeal this law, the rich will oppress the poor. Nothing but too much law can any where put it in the power of the rich to oppress the poor. Suppose you had no law at all, could the rich oppress the poor? Could they get six, eight or ten per cent. for money from the poor without law? If you destroy all law and government, can the few oppress the many, or will the many oppress the few? But the passing the bill will neither put it in the power of the rich to oppress the poor, nor the poor to oppress the rich. There will then be law enough in the country to prevent the one from oppressing the other. But while the elective principle remains free, no great danger of lasting oppression can be really apprehended; as long as this continues, the people will know who to trust.

We have heard much about the judges, and the necessity of their independence. I will state one fact, to show that they have power as well as independence. Soon after the establishment of the Federal Courts, they issued a writ—not being a professional man I shall not undertake to give its name—to the Supreme Court of North Carolina, directing a case then depending in the State court to be brought into the Federal Court. The State Judges refused to obey the summons, and laid the whole proceedings before the Legislature, who approved their conduct, and, as well as I remember, unanimously; and this in that day was not called disorganizing.

As so much has been said about the resolutions of North Carolina, I will repeat again, that it is no uncommon thing for the Legislature to express their opinion on great national subjects, and will ask my colleagues whether they ever heard any complaint of the resolutions about the Western land? And whether none of them in the Legislature never voted for the resolutions about the western land, nor about post-offices and post-roads? The Legislature surely had as much right to give an opinion as the Chamber of Commerce of New York; but, put it upon what footing you please, it is entitled to respect, as the uninfluenced opinion of so many respectable individuals; and the Legislature never intended nor wished that the recommendation to the representatives should be binding on them at all events; and if I believed the bill to be unconstitutional, I should not vote for it, but as I do not, I hope the gentleman will pardon me for pursuing my own sentiments, and voting for it. I hope no man will ascribe to me a disposition to produce anarchy in my native country. Although poor myself, I feel as strong a desire as any one on this floor for the preservation of good order and good government.

It has been asked, by the gentleman from Delaware, (Mr. BAYARD,) will the gentleman from Virginia (Mr. GILES) say, the assuming the State debts was improper? I have no hesitation to say that it was done at an improper time; and, in showing that it was, I hope I shall be pardoned for travelling over topics that really have nothing to do with the merits of the present question. That act is now done, and, by what I say, it is not to be understood that I wish Congress should put their hands upon it. It will be noticed that Congress are authorized to establish post-offices and post-roads for the general and equal dissemination of information throughout the United States; and is it not known that no act was passed on that subject before the assumption of the State debts, and that there was only one post-road which run near the sea-coast? Of course, the people in the interior country had no communication with those in the Government, nor had they any knowledge of what was doing. But the rich speculator, who was on the spot, by going into the country where the people were ignorant of what had been done, purchased up their certificates—the only reward they had received for their toil and wounds—at about one-tenth of their value. And it is possible that many of these purchases may have been made with public money. And it is clear to me, that if a proper number of post-roads had been established, before the act was

passed for assuming the State debts, the war-worn soldier would not have lost half as much as he did by the speculation on his certificates.

The gentleman from Delaware says we drove them to the direct tax. This is the first time I ever heard of a minority driving a majority. Is such a thing possible? Did we drive them to the measures that made such immense expenditures of the public money necessary? No, sir, we opposed those measures as useless; and the true ground of the direct tax is this: the public money was expended; public credit was stretched, until, to preserve it, it became necessary to provide for paying, and the means adopted were the direct tax.

The same gentleman tells us there is nothing sacred in the eyes of infidels. We know our opponents. The allusion here is too plain not to be understood; and evidently is, that those who differ with him in opinion are infidels. This is a strong expression; it would have seemed that his love of Americans ought to have prevented the use of it. I shall make no answer to it, except to remind him that in a book, the truth of which he will not deny, he will find these words, "*Judge not, lest ye be judged.*" He also said that gentlemen might look to the Executive for victims, and not to the judges. Notwithstanding this remark, and without condemning or approving the appointments made by the late President, I hope I may be permitted to express my own ideas, without being considered as under the influence of the present President. Prior to the fourth of last March, all, or nearly all, the offices in the gift of the Executive, were in the hands of men of one political opinion. On that day, the people changed the President, because they did not like measures that had been pursued. But, to those who have attended to the debates in this House, it must appear strange, indeed, to hear gentlemen complain of the President having in office those who agree with him in opinion, when we were formerly told that the President would do wrong if he appointed to office those who differed from him in political opinion; and whenever he had done it, he had had cause to repent of it. Was that opinion then correct, and now false, in the estimation of gentlemen? For my part, I did not think the opinion correct when I first heard it, nor have I since been convinced of its propriety. Indeed, before I can think so, I must have a worse opinion of human nature than I now have, and think of men as they pretend to think of us, which God forbid! But, taking things as they are, what course, on this point, is most fair and tolerant? The community, as well as this House, is divided into two parties. It seems to me, that all the most tolerant could wish, would be an equal division of the offices between the parties, and thus you might fix a reciprocal check on each other. But I ask gentlemen to be candid, and tell me whether they are at this time equally divided? Sir, they know that there are many more persons who now fill offices who agree with them in opinion than agree with us. As to myself, I care not who fill offices, provided they act honestly and faithfully in them. I can with truth say, so little party attachment have I on this head, that I never solicited to have any man discharged from office. Knowing that a large majority of those now in office agree with those gentlemen in political opinion, I am at a loss for the cause of all this clamor. They have no doubt some reason for it, which has not been declared. The fact is, they have a majority of the offices, and a majority of the people are with us. I am contented it should be so.

The gentleman has dwelt much on a subject which, from my habits of life, I am not enabled fully to notice; I must decide for myself, and, judging with the small share of information I possess, I cannot agree with him. I do not pretend to understand the subject as well as he does, but certainly he was not so perspicuous as it might have been expected. I mean, sir, his opinion on the common law. He told us that the judges only adopted such parts of the common law of England as suited the people, and that he apprehended no danger from this. Sir, I do apprehend danger from this, because I cannot find any authority given them in the constitution to do it, and I suppose it is not an inherent right. Without pretending to know the extent of this common law, it has always appeared to me to be extremely dangerous to the rights of the people, for any person not elected by them, to undertake to exercise the power of legislating for them, and this adopting the common law is only another name for legislation. He has also told us, that the States had adopted it. If the States adopted it, it became a law of the State, and not of the United States; but the adoption of it by the individual States, could not give the judges a right to adopt it for the United States. The judges have no powers but what are given by the constitution or by statute, and this power cannot be found in either. He even told us, that the constitution was a dead letter without it. I do not believe this was the opinion of the convention that formed it, and by an examination of the debates of the State conventions that ratified it, it will not be found to be their opinion; nor is it, I believe, the opinion of all the Judges of the Supreme Court, that the constitution would be a dead letter without the common law of England. I have understood, that one of them has given it as his opinion, that the common law was not in force in the United States. The gentleman told us, that the Sedition law was constitutional, and that the judges had so determined. This we have often been told before; but, in my opinion, the contrary is the fact. I firmly believe there is no authority given in the constitution to pass that law, and although the judges agree with him in opinion, I believe the people agree with me. He, like my colleague, did not pretend to say that the judges under the old system had too much business, but too much riding. The whole burden of the song seems to be riding and salary, salary and riding; you may destroy the office, but the officer must have his salary, and this I suppose without riding. The old system was, in my opinion, equal to every object of justice contemplated by its establishment.

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The gentleman has ascribed to us the wish to have the courts viciously formed. Is it possible, that he can have so degrading an idea of the American people, as to suppose they would send men here to legislate on their dearest interests, so base and corrupt, as to wish their courts so formed, that vice and not virtue should prevail in them? I am happy to say that gentleman is the only one who has uttered a sentiment so abhorrent to human nature. He also said, if you permit the State courts to execute your laws, you would have no constitution in ten years. I have not heard any

one express a desire that you should have no courts, or that the State courts should execute all your laws; but I do not believe, that if the State courts were to execute your laws, that they would destroy the constitution which they are sworn to support. He has told us that we paid millions for an army which might be useless, and refused thousands to a Judiciary which was useful. As to the army, those who agree with me in sentiment, are as clear of it as it is possible for men to be of any political sin whatever; we always considered them useless, except in a small degree, and voted against them.

But, says he, this is the President's measure; he may prevent it. This is indeed a bold assertion. Are a majority of this House so degraded, so mean, so destitute of honor or morality, as to act at the nod of a President? What the majority may hereafter do, I cannot tell; but I can say, as yet they have done nothing which even the eye of criticism can find fault with. But are we to infer from these charges, that it has heretofore been the practice for the President to give the tone to the majority of the House, and to wield them about as he pleased? I had, before, a better opinion of our adversaries. I had thought, and still think, that no man can wield a majority of this House; that the House is, and has been, too independent for this; to think otherwise, would be degrading to my country. Sir, I do not believe the gentleman from Delaware himself, with all his talents, can wield those with whom he generally votes, at his will and pleasure.

Much has been said about the manner in which the late law was passed, and the purpose for which it was done. I hope I shall be pardoned for saying nothing on this subject; enough, if not too much has already been said on it; nor can I conceive that it has any thing to do with the question.

The true question is, were there courts enough under the old system, to do the business of the nation? In my opinion there were. We had no complaints that suits multiplied, or that business was generally delayed; and when gentlemen talk about Federal courts to do the business of the people, they seem to forget that there are State courts, and that the State courts have done, and will continue to do almost the whole business of the people in every part of the Union; that but very few suits can be brought into the Federal courts, compared with those that may be brought into the State courts. They will be convinced that under the old system, we had federal judges and courts enough; besides, sir, I believe each State knows best what courts they need, and if they have not enough, they have the power and can easily make more. I am sure the old system answered every purpose for the State I live in as well as the new.

He also told us, that we attempt to do indirectly what we cannot do directly. I do not know of any such attempt. The bill is certainly a direct attempt to repeal the act of the last session; but I have seen things done indirectly which I believe could not have been done directly; such was the army of volunteers; it surely was an indirect attempt to officer and get possession of the militia. The same gentleman challenges us to say there are any in the United States who prefer monarchy. In answer to this, I say, there were such during the American revolutionary war, and I have not heard that they had changed their opinion; but as he has told us there were jacobins in the country, it is not unfair to suppose there are monarchists; they being the two extremes. We are also charged with a design to destroy the whole Judiciary. If there is such a design, this is the first time I ever heard it; no attempt of the kind is yet made. But what is the fact? We only propose to repeal the act of the last session, and restore the Judiciary exactly to what it was for twelve years, and this is called destroying the Judiciary.

To complete the scene, we were told of the sword, of civil discord, and of the sword of brother drawn against brother. Why such declamation? Why do we hear of such things on this floor? It is for them to tell who use the expressions; to me they are too horrid to think of. Do gentlemen appeal to our fears, rather than to our understanding? Are we never to be clear of these alarms? They have often been tried without producing any effect. Every instrument of death is dragged into this question; sword, bayonet, hatchet, and tomahawk; and then we are told that the passing this bill may be attended with fatal consequences to the women and children. Can it be possible, sir, that the gentleman was really serious when he talked about an injury to women and children? He also told us, if you pass the bill and it should produce a civil war, not only himself but many enlightened citizens would support the judges. And have we already come to this, that enlightened citizens have determined on their side in case of a civil war, and that it is talked of in this assembly with deliberation and coolness? We certainly were not sent here to talk on such topics, but to take care of the affairs of the nation, and prevent such evils. In fact, it is our duty to take care of the nation, and not destroy it. Compare this with the conduct of the former minority. I challenge them to show any thing like it in all their proceedings. Whenever we supposed the constitution violated, did we talk of civil war? No, sir; we depended on elections as the main corner-stone of our safety; and supposed, whatever injury the State machine might receive from a violation of the constitution, that at the next election the people would elect those that would repair the injury, and set it right again; and this, in my opinion, ought to be the doctrine of us all; and when we differ about constitutional points, and the question shall be decided against us, we ought to consider it a temporary evil, remembering that the people possess the means of rectifying any error that may be committed by us.

Is the idea of a separation of these States so light and trifling an affair, as to be uttered with calmness in this deliberate assembly? At the very idea I shudder, and it seems to me that every man ought to look on such a scene with horror, and shrink from it with dismay. Yet some gentlemen appear to be prepared for such an event, and have determined on their sides in case it should happen. For my part, sir, I deplore such an event too much to make up my mind on it until it shall really happen, and then it must be done with great hesitation indeed. To my imagination, the idea of disunion conveys the most painful sensations; how much more painful then would be

the reality! Who shall fix the boundaries of these new empires, when the fatal separation shall take place? Is it to be done with those cruel engines of death that we have heard, of, the sword, the bayonet, and the more savage instruments of tomahawk and hatchet? And is the arm of the brother to plunge them into the breast of brother, and citizen to be put in battle array against citizen, to make this separation which would ruin the whole country? And why is all this to be done? Because we cannot all think alike on political topics. As well might it be said, because we cannot all agree in the tenets embraced by each particular sect of our holy religion, because one is a Calvinist and another a Lutheran, that each should be employed in plunging the dagger into the heart of the other. But suppose, sir, you agree to divide these States, where is the boundary to be? Is it to be a river, or a line of marked trees? Be it which it may, both sides must be fortified, to keep the one from intruding on the other; both the new governments will have regular soldiers to guard their fortified places, and the people on both sides must be oppressed with taxes to support these fortifications and soldiers. What would become, in such a state of things, of the national debt, and all the banks in the United States? If we do wrong by adopting measures which the public good does not require, the injury cannot be very lasting; because at the next election the people will let us stay at home, and send others who will manage their common concerns more to their satisfaction. And if we feel power and forget right, it is proper that they should withdraw their confidence from us; but let us have no civil war; instead of the arguments of bayonets, &c., let us rely on such as are drawn from truth and reason.

Another topic has been introduced, which I very much regret; it is the naming of persons who have received appointments from the late or the present President. I hope I shall be pardoned for not following this example. And one gentleman is named as having been an important member during the election of President by the late House of Representatives. It ought to be remembered there were others as important as the gentleman named. In talking about the late or the present President, it ought not to be forgotten that they both signed the Declaration of Independence, that they have both been Ministers in Europe, and both Presidents of the United States. Although they may differ in political opinion, as many of us do, is that any reason we should attempt to destroy their reputation? Is American character worth nothing, that we should thus, in my judgment, improperly, attempt to destroy it on this floor? The people of this country will remember that British gold could not corrupt nor British power dismay these men. I have differed in opinion with the former President, but no man ever heard me say, that he was either corrupt or dishonest; and sooner than attempt to destroy the fame of those worthies, to whose talents and exertions we owe our independence, I would cease to be an American; nor will I undertake to say that all who differ from me in opinion are disorganizers and jacobins.

**THURSDAY, February 25.**

***Judiciary System.***

The House then went into a committee on the bill, sent from the Senate, entitled, "An act to repeal certain acts respecting the organization of the courts of the United States, and for other purposes."

Mr. RUTLEDGE.—I beg leave, Mr. Chairman, to proffer my thanks to the committee for the indulgence with which they favored me yesterday, and at the same time to acknowledge the respect excited by the politeness of the honorable gentleman from Maryland, who moved for its rising. In the course of the observations I yesterday offered, I endeavored to show that it was the intention of the Convention to make our judges independent of both Executive and Legislative power; that this was the acknowledged understanding of all the political writers of that time; the belief of the State Conventions, and of the first Congress, when they organized our Judicial system. If I have been successful in my attempt to establish this position, and if (what I suppose cannot be denied) it be true in jurisprudence, that whenever power is given specially to any branch of Government, and the tenure by which it is to be exercised be specially defined, that no other, by virtue of general powers, can rightfully intrude into the trust; then I presume it must follow of consequence, that the present intermeddling of Congress with the Judicial Department is a downright usurpation, and that its effect will be the concentration of all power in one body, which is the true definition of despotism. As, sir, every thing depends upon the fair construction which this article in the constitution respecting the Judiciary is susceptible of, I must again read it. [Here Mr. R. read several clauses of the constitution.] Some of the clauses we see are directory and others prohibitory. Now, sir, I beg to be informed of what avail are your prohibitory clauses, if there be no power to check Congress and the President from doing what the constitution has prohibited them from doing? Those prohibitory regulations were designed for the safety of the State Governments, and the liberties of the people. But establish what is this day the ministerial doctrine, and your prohibitory clauses are no longer barriers against the ambition or the will of the National Government; it becomes supreme and is without control. In looking over those prohibitory clauses, as the Representative of South Carolina, my eye turns with no inconsiderable degree of jealousy and anxiety to the ninth section of the first article, which declares—[Here Mr. R. read the article respecting migration before the year 1808.]

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I know this clause was meant to refer to the importation of Africans only, but there are gentlemen who insist that it has a general reference, and was designed to prohibit our inhibiting migration as well from Europe as any where else. It is in the recollection of many gentlemen who now hear me, that, in discussing the alien bill, this clause in the constitution was shown to us, and we were told it was a bar to the measure. And an honorable gentleman from Georgia, then a member of this House, and now a senator of the United States, (and who had been a member of

the Convention,) told us very gravely he never considered this prohibition as relating to the importation of slaves. I call upon gentlemen from the Southern States to look well to this business. If they persevere in frittering away the honest meaning of the constitution by their forced implications, this clause is not worth a rush—is a mere dead letter; and yet, without having it in the constitution, I know the members from South Carolina would never have signed this instrument, nor would the convention of that State have adopted it. My friend from Delaware, standing on this vantage ground, says to our opponents, Here I throw the gauntlet, and demand of you how you will extricate yourselves from the dilemma in which you will be placed, should Congress pass any such acts as are prohibited by the constitution? The judges are sworn to obey the constitution, which limits the powers of Congress, and says they shall not pass a bill of attainder or *ex post facto* law, they shall not tax articles exported from any State, and has other prohibitory regulations. Well, sir, suppose Congress should pass an *ex post facto* law, or legislate upon any other subject which is prohibited to them, where are the people of this country to seek redress? Who are to decide between the constitution and the acts of Congress? Who are to pronounce on the laws? Who will declare whether they be unconstitutional? Gentlemen have not answered this pertinent inquiry. Sir, they cannot answer it satisfactorily to the people of this country. It is a source of much gratification to me to know that my sentiments on this subject, as they relate to the constitutionality of it, are in unison with the wisest and best men in my native State. The Judicial system had proved so inconvenient there, as to render a new organization of it necessary some years past. There were gentlemen in the Legislature as anxious to send from the bench some of the judges as gentlemen here are to dismiss our federal judges. Personal animosities existed there as well as here, though not to so great an extent; but it was the opinion of a large majority of the South Carolina Legislature, that as the constitution declares, "the judges shall hold their offices during good behavior," the office could not be taken from them, the measure was abandoned, and the wise and cautious course pursued, which we wish gentlemen here to follow: the system was not abolished, but modified and extended; the judges had new duties assigned to them, and their number was increased, but no judge was deprived of his office. In South Carolina they have a court of chancery, consisting of three chancellors, and the law establishing it requires the presence of two judges to hold a court. During a recess of the Legislature, one of the chancellors resigned and another died. The functions of the court of consequence became suspended. All the business pending in it was put to sleep. The public prints were immediately filled with projects for destroying the court, which had been denounced as unnecessary. As the citizens of the western part of the State had not participated much in the benefits derived from the court of chancery, many of the most influential of them deemed it of little utility. The opposition assumed so formidable an aspect as to determine the Governor (who exercises the power of appointing judges during the recess of the Legislature) not to make any appointment, believing the court would be abolished. When the Legislature met, an effort was made to abolish the court, but a large majority giving to the constitution the honest meaning of its framers, considered the judges as having a life estate in their offices, provided they behaved well; and the vacancies on the chancery bench were immediately supplied.

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That the national Judiciary Establishment is comparatively more costly than are the State Judiciaries, is far from being the case, I believe. It may be so in Virginia, where they have one chancellor, with little salary and much business, but it is not so in other States. In South Carolina, we have six judges at common law, at six hundred pounds sterling a year each; three chancellors at five hundred pounds each; which, together with the salaries and fees of office of the attorney general, master in chancery, solicitors, clerks, and sheriffs, amount to six thousand two hundred pounds sterling. And yet, sir, justice, I believe, is nowhere cheaper than in South Carolina. By the judicious structure of her judiciary system, the streams of justice are diffused over the whole State, and every man is completely protected in his life, liberty, property, and reputation. The courts are almost constantly in session. The judges are gentlemen of high talents, integrity, and strict impartiality; and every one who goes into the court of that State, not only obtains ample justice, but obtains it promptly; this, sir, is what I call cheap justice. The gentleman from Virginia has seen fit to notice the law which laid a direct tax, and said it was imposed when we knew the Administration of this Government was soon to pass from those then in power, and was resorted to as a means of extending Executive patronage, and to make provision for the friends of an expiring Administration. Can the honorable gentleman be serious in all this? Does he remember when we passed this law? It was in 1798, when I will be bold to say, the Administration enjoyed the highest degree of popular favor. In no popular Government, perhaps, was an Administration more popular than was the former Administration, at the time this tax was laid. Sir, this law had no connection with personal or party considerations. Like all the measures of the past Administration, it was designed to promote the public good. Had we, like our opponents, consulted the caprices and prejudices, and not the real interests of our constituents; had we been merely attentive to popular favor, we should not have passed this law. At the crisis it was passed, the public good demanded it, and we were regardless of every other consideration. A nation that had lighted up the flame of war in every corner of Europe, that was prostrating the liberties of every free people, and subverting the Government of every country, saw fit to menace us; told us for the preservation of our peace and independence we must pay tribute. This degrading measure was scornfully rejected by our Administration; they said, if we must fall, we will fall after a struggle; and our citizens prepared themselves for war with alacrity, and regarded every sacrifice as inconsiderable, compared with the great sacrifice of our independence. With this prospect of immediate war, we should have acted not only unwisely but treacherously, had we trusted for public income to the revenue derived from trade. Had our trade been destroyed, there would have been a complete destitution of revenue, and to place the means of national defence as far beyond the reach of contingency as possible we imposed the direct tax.



We knew this law would prove arms and ammunition to those who were inventing all the falsehood credulity could swallow, and who were busily employed in misrepresenting and calumniating the conduct of the Government. We did suppose they might make this law their artillery to batter down the Administration; but we were not deterred from our honest purposes by this expectation; a change of men, when compared with a change of government, weighed with our minds as dust does in the balance; our measures did not aim at popularity, and we were just to our country, regardless of party consequences. At this early period, says the gentleman, it was to have been calculated what would be the result of the Presidential election. Sir, those must have been gifted with second sight, they must have been prophets indeed, who could have then foretold how the election would issue; the result was as doubtful as any event could be, till within a few days of the election. It is recollected that every thing depended upon the South Carolina vote; all the gentlemen in nomination went there with an equal number of votes; the anxiety displayed at the time by the gentlemen here from Virginia, proved they then deemed it doubtful how the election would terminate. Indeed, sir, nothing could have been more doubtful, and I believe it is fully known to the ministerial side of this House, that it depended upon one of the gentlemen nominated, who had not the Carolina votes, to have obtained them, and produced to the election a different result; but his correct mind was obnoxious to any intrigue; it would not descend to any compromise, and this honorable man knew that no station could be honorable to him unless honorably obtained. In the very wide range which the gentleman from Virginia has permitted himself to take, he has been pleased to notice the conduct of the late Congress when they were occupied in the election of the President of the United States, and he has said we were then "pushing forward to immolate the constitution of our country." What does all this mean, sir? What, sir! because we, of the two gentlemen who had from the electors an equal number of votes, did not prefer him who was from Virginia, are we to be charged with an immolation of our constitution? Sir, the gentleman from Virginia was not a member of the last Congress, and lest he should not know the history of the transaction to which he alludes, I will give it.

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The Electors chosen in the different States gave the same number of votes for Thomas Jefferson and Aaron Burr; there being a tie, it devolved, by the direction of the constitution, upon the House of Representatives to make an election. We sincerely believed that Mr. Burr was the best and the most fit man to be President, and we accordingly voted for him; we continued to vote for him six and thirty times; we were anxious to have him elected, and we deprecated the election of the other candidate; but when we found gentlemen were determined not to have the candidate from New York, and said they would have him from Virginia President, or they would have no President, we, who venerated our constitution too sacredly to do any thing which should hazard the loss of it, yielded. We believed Mr. Jefferson radically and on principle hostile to the National constitution; we believed some of the most important features in it obnoxious to him; we believed him desirous of destroying the independence of our Judiciary; we believed him opposed to the Senate as now organized, and we believed him destitute of that degree of energy necessary to maintain the general liberty of the people of the United States. With these impressions deep upon our minds, we should have been traitors to our country had we voted for the gentleman from Virginia, as long as there was any prospect left to us of elevating the gentleman from New York; but when we found the object of our preference was so obnoxious to gentlemen on the other side, that they would hazard the having of no President rather than have him, we ceased our opposition.<sup>[67]</sup> And this is what the honorable member from Virginia has been pleased to call "pushing forward to immolate the constitution."

I regret, Mr. Chairman, being compelled to mention names and say any thing of a personal nature, but I am obliged to do it in pursuing the gentleman from Virginia, who in his extraordinary course has not only mentioned the names of gentlemen, but ascribed unworthy motives for their conduct. He has said Mr. Read and Mr. Green voted for the law under which they got appointments. Although I have abundant proof that neither of these gentlemen solicited their offices, that they were given spontaneously, and without being expected, yet I will merely answer this observation by mentioning what is very generally known to all gentlemen who have been of late in the councils of the nation; it is, that it was the invariable practice of the former Executive to appoint gentlemen to office without previously advising with them. It is well known that under the law gentlemen are now endeavoring to repeal, Mr. Jay was appointed Chief Justice, and about the same time several gentlemen in this House were appointed to some of the most honorable stations under our Government; the Executive's intention, it is well known, had not been previously notified to them; it is well known they all declined accepting the places proffered to them. Permit me, sir, to give a brief history of the case of Mr. Green, on which the gentleman from Virginia has dwelt so much.

The district judge in Rhode Island was appointed circuit judge, and Mr. Green was appointed district judge. On the fourth day of March, Mr. Green took his seat in the Senate; the friends of the Administration objected to his keeping it; they said he was a judge, as appeared by the journals of the Senate; they here made a complete recognition of his appointment as judge, and he vacated his seat. After getting home he received his commission, in which the blanks had been filled up with the words circuit judge, instead of district judge. Mr. Green enclosed his commission to the Executive, in a letter most profoundly respectful, and requested the errors of the clerk in the Department of State might be corrected, and his commission made to conform to the appointment, as recorded on the Senatorial journal. To this letter, which was in highly respectful terms, the President would not deign to have any answer given; he pocketed Mr. Green's commission, and placed another gentleman in his office. This is a history of the appointment of Mr. Green, and the manner in which the President "corrected the procedure."

Sir, the Judiciary is, in the fabric of the constitution, not a Corinthian pillar, not any ornament

added by Congress. It is, sir, the grand Doric column; one of three foundation pillars, formed not by Congress, but by the people themselves; it binds together the abutment, is laid as the foundation of the late fabric of our Government, and if you demolish it, the grand arch itself will totter and the whole be endangered. We are asked by the gentleman from Virginia if the people want judges to protect them? Yes, sir, in popular governments constitutional checks are necessary for their preservation; the people want to be protected against themselves; no man is so absurd as to suppose the people collectively will consent to the prostration of their liberties; but if they be not shielded by some constitutional checks they will suffer them to be destroyed; to be destroyed by demagogues, who filch the confidence of the people by pretending to be their friends; demagogues who, at the time they are soothing and cajoling the people, with bland and captivating speeches, are forging chains for them; demagogues who carry daggers in their hearts, and seductive smiles in their hypocritical faces; who are dooming the people to despotism, when they profess to be exclusively the friends of the people. Against such designs and artifices were our constitutional checks made to preserve the people of this country. Will gentlemen look back to the histories of other countries, and then tell us the people here have nothing to apprehend from themselves? Who, sir, proved fatal to the liberties of Rome? The courtier of the people; one who professed to be "the man of the people," who had willed his fortune to the people, and had exposed his will to the public eye; a man who, when a Crown was proffered to him, shrunk from the offer, and affectedly said, it did not come from the people. It was Julius Cæsar who prostrated the liberties of Rome; and yet Cæsar professed to be the friend of Rome, to be in fact the people. Who was it, that, in England, destroyed the Representative Government, and concentrated all its powers in his own hands? One who styled himself the man of the people; who was plain, nay studiously negligent in his dress; disdainful to call himself Mister, it was plain unassuming Oliver; Oliver Cromwell, the friend of the people, the protector of the Commonwealth. The gentleman from Virginia says he would rather live under a despot than a Government where the judges are as independent as we would wish them to be. Had I his propensities, I, like him, would fold my arms and look with indifference at this attack upon the constitution. It has been my fortune, Mr. Chairman, to have visited countries governed by despots. Warned by the suffering of the people I have seen there, I am zealous to avoid any thing which may establish a despotism here. It is because I am a republican in principle and by birth, and because I love a republican form of Government and none other, that I wish to keep our constitution unchanged. Independent judges, at the same time that they are useful to the people, are harmless to them. The judges cannot impose taxes; they cannot raise armies; they cannot equip fleets; they cannot enter into foreign alliances: these are powers which are exercised without control by despots; and as the gentleman from Virginia does not hold despots in abhorrence, he and I can never agree in our opinions on Government.

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Whether another honorable gentleman from Virginia (Mr. RANDOLPH) has derived all the service from his sling and his stone he had expected, or whether he feels acquitted of his promise, and now thinks himself capable of prostrating the Goliath of this House, armed cap-à-pie with the constitution of his country, I cannot conjecture. Whether he has discovered the skill and the prowess of David, or whether he is likened to him only by the weapons he wars with, it is for the committee to judge; for myself I must say, that his high promises had excited expectations which in me have not been realized, and when the gentleman sat down I was sorry to find my objections to the bill on your table undiminished. I say sorry, for I can lay my hand upon my heart, and in the fulness of sincerity declare, there is nothing I desire more anxiously than to be convinced by gentlemen that this measure is not unconstitutional.

The gentleman has asked whether, if we had created an army of judges, and given them monstrous high salaries, it would not be right to repeal the law; that if the power exists to repeal any law which might have passed on this subject, it might not now be used? and has been pleased to say, we would have created more judges and given them higher salaries, if we had not wanted nerves; and tells my honorable and learned friend from Delaware that we were restrained by the same feebleness of nerve which induced us at the Presidential election to put blank votes into the ballot box. Sir, my friend from Delaware does want that sort of nerve that some gentlemen now discover. Although he is as brave as he is wise, yet in living without fear he will live without reproach, and never make himself liable to the charge of prostrating the constitution of his country; for such a work it is true he has no nerve. The observations of one honorable gentleman from Virginia (Mr. GILES) being now reiterated by another respecting the course of conduct we pursued at the Presidential election, shows that time has not abated the resentment of Virginia which we excited by our not voting for the Virginia candidate. Permit me here to declare, sir, that in reviewing all my public conduct, I can discover no one act of which I am more satisfied than my having put a blank vote into the ballot-box. Much has been said on this subject. My friend from Delaware and myself have been denounced by the jacobins of the country; at their civic feasts, and in their drunken frolics, we have been noticed. European renegadoes, who have left their ears on the whipping posts of their respective countries, or who have come to this country to save their ears, have endeavored to hang out terrors to us in the public prints; nay, sir, circular letters have been diffused through the country, charging us with the intention of preventing at one time the election of a President, and at another with the design of defeating the vote of the Electors and making a President by law. This was all a calumny, and as it relates to the South Carolina delegation, I declare they had no intention of defeating the public will; they never heard of any project for making a President by law; they had but one object in view which they pursued steadily as long as there was any prospect of attaining it. The gentleman from Virginia and the gentleman from New York had an equal number of votes; we preferred the latter; we voted for him more than thirty times, but when we found our opponents would not unite with us, and seemed obstinately determined to hazard the loss of the constitution rather

than join us, we ceased to vote; we told them we cannot vote with you, but by ceasing to vote, by using blank votes, we will give effect to your votes; we will not choose, but we will suffer you to choose. Surely, Mr. Chairman, there was nothing in all this which had any aspect towards defeating the public will. Why I did not prefer the gentleman who ultimately was preferred, has already been mentioned. This is a subject on which I did not expect to be called upon to explain; but the gentlemen from Virginia have called, and it was necessary to answer. Permit me to state, also, that besides the objections common to my friend from Delaware and myself, there was a strong one which I felt with peculiar force. It resulted from a firm belief that the gentleman in question held opinions respecting a certain description of property in my State, which, should they obtain generally, would endanger it, and indeed lessen the value of every other. [68] Following the example set by his colleague, the gentleman from Virginia has bestowed much censure on the past Administration, and made it a serious charge against them, having appointed under this law a gentleman of Maryland, who he says was not with us formerly, but unfurled his standard in the service of his King, and fought against his countrymen, whom he then deemed rebels. I did not expect, Mr. Chairman, to hear this observation from one of the friends of the Executive. Since the fourth of March last, I thought philosophy had thrown her mantle over all that had passed; that sins were to be forgotten and forgiven, and to prove the sincerity of this forgiving spirit, sinners were to be distinguished by Executive favors. One would have thought so in reviewing Executive conduct; where persons had been imprisoned and fined under our laws, they we know were released; where fines had actually been paid, the officers of Government had been ordered to return them, and not only tories had been appointed to office, but old tories, rank old tories, who had been banished. The present collector of Philadelphia, for the internal revenue, has been appointed since the fourth of March last, and although he never, like the gentleman alluded to, shivered lances in the service of his King, yet he was actively employed in the more safe service of giving information to the British Generals, and marching before Sir William Howe, decorated with laurels, conducted him into the metropolis of his native State. Sir, there are many instances of this kind. Have gentlemen forgotten the young Englishman who was so busily employed here last winter during the Presidential election, that in seeing him one would really have supposed him not only a member of this House, but, like him of Tennessee, holding an entire vote at his command? This youngster was sent out here by some merchants in England to collect debts due to them in this country, and his father, whose tory principles carried him from America early in the Revolution, is now subsisting on a royal pension; and this young man has been appointed our Consul at London, and the former consul, a native and stanch American, whose conduct had been approved by merchants generally, has been turned out to create a vacancy. The gentleman from Virginia has repeated the observation of his colleague, that the people are capable of taking care of their own rights, and do not want a corps of judges to protect them. Human nature is the same every where, and man is precisely the same sort of being in the New World that he is in the Old. The citizens of other Republics were as wise and valiant and far more powerful than we are. The gentleman from Virginia knows full well, that wherever the Roman standard was unfurled, its motto, "*Senatus Populusque Romani*," proclaimed to a conquered world that they were governed by the Senate and the people of Rome. But now, sir, the Roman lazzaroni, who crouching at the gates of his Prince's palaces, begs the offals of his kitchen, would never know that his ancestors had been free, nor that the people had counted for any thing in Rome, or that Rome ever had her Senate; did he not read it on the broken friezes and broken columns of the ruined temples, whose fragments now lie scattered over the Roman forum!

## TUESDAY, March 2.

Mr. DANA.—After this vindication of meritorious men who have been removed from office, I will now attend more particularly to some observations of the gentleman from Virginia. He has spoken of the judicial act of the 13th of February, 1801, as if the passage of it had been attended with improper circumstances, and thence has attempted to deduce the inference that it ought to be repealed. He read part of the journal of the last session, and charged certain members of the House with having been engaged in opposing the public will at the time when the act was approved. The journal shows, that on the 13th of February, eighteen hundred and one, the representatives, voting by States, proceeded to the twenty-ninth ballot for President, and the result was the same as had taken place before; the votes of eight States given for Thomas Jefferson; the votes of six States for Aaron Burr; and the votes of two States divided. Much has been said on this topic, which has at length been brought forward as a public charge by the gentleman from Virginia. It is now time that it should be examined.

According to the principles of our Government, the public will, when explicitly ascertained by an authentic act, is the law of the land, and must be obeyed. Of this there can be no doubt; it is beyond all question. But this public will is not merely the will of part of the community, a section of the people; it is the will of the great body of American citizens. The highest and most solemn expression of the public will in this country is the Constitution of the United States. This was agreed to by the General Convention; was transmitted to the Legislatures of the several States by the unanimous resolution of Congress under the Confederation; was recommended by all those Legislatures, when they passed laws for submitting it to conventions for their ratification, and was finally ratified by the conventions of all the States in the Union. It was thus established by the general consent. In this we should acknowledge the high authority of the public will.

There is, however, a misfortune which attends the argumentation of some gentlemen. They substitute a part for the whole; and would confound the will of a certain portion of the people,

however vaguely expressed, with the will of the whole public body as explicitly manifested by an authentic act.

What manifestation was there of the public will relative to the late election of a President of the United States? The only authentic evidence of the public will on this subject proved, that Thomas Jefferson, of Virginia, and Aaron Burr, of New York, were equally the objects of approbation. The majority of the electors had given them an equal number of votes. What then was the difference of right between them? Was it, that one of the candidates was a Virginian? Was it that the members of Congress were assembled on the banks of the Potomac, with Virginia in view on the other side? Must it be acknowledged as the prerogative of that State to impose a Chief Magistrate on the Union? Or was there a difference of right, because Virginia, with its extent and population, could make more clamor than any other State? The noise of so great a State may sometimes seem loud enough for the voice of the people of the United States. And are they, therefore, in this House to be confounded with each other? If so, the observations about the public will, of which we have lately heard so much from a certain quarter, must be understood to mean the will of Virginia; and we may thus judge of the argumentation when gentlemen from that State are speaking of the respect due to the public will.

Two persons were presented, in constitutional form, to the House of Representatives, as being equally candidates for the office of President: one from Virginia and the other from New York. When they were so presented, the choice between the two candidates was devolved on the Representatives, by the Constitution of the United States. After maturely considering the question, it was for them, as ultimate electors, to vote as they judged to be most for the public welfare. They voted by States, as required by the constitution. And are gentlemen to be here accused for exercising the constitutional right of election according to the conviction of their own judgments? When called upon, under the constitution, to elect one of the two candidates, were they not bound, by the nature of their duty, to give their votes according as the one or the other was by them judged to be more or less preferable? Upon what principle can gentlemen be accused of hostility to the interest of the people, because they did not think proper to elect the candidate from Virginia? Are our affairs already reduced to such a situation that it is to be charged as a public offence, if any member of this House has failed to vote for a Virginian to be the President of the United States?

It was the constitutional right of members of this House, in deciding between the two candidates, to give their ballots for the one whom they believed to be superior in practical capacity for administering the Government—one whom they believed to be not hostile to the commercial interests of the country, and not disposed to subject the Union to the domination of a particular State, whatever might be its lordly pretensions in consequence of extent of territory or antiquity of dominion.

As the gentleman from Virginia has thought proper to speak of events which took place about the time of passing the act in question, allow me, sir, to mention one circumstance, of which he has said nothing. The act, as finally enrolled, was signed by the Speaker of the House of Representatives after the balloting for a President had commenced; and the Clerk carried it to the other House for the signature of their President. The candidate from Virginia was then in the chair of the Senate. The Clerk of this House, on first presenting himself, as was customary, at the door of the Senate Chamber, was not admitted. The situation came to the knowledge of a Senator, and was communicated to the Senate. After the sense of that body was found to be for his admission, the door was opened, and the Clerk was admitted to deliver his message, and present the enrolled bill for signature. It was then signed by the President of the Senate.

What should be thought of this, as taken in connection with the fate of the act and pendency of the Presidential election? Was it a circumstance which must ever be remembered with mortification, and which therefore will never be forgiven?

To give a further color to the suggestion that the passage of the act was attended with improper circumstances, the attempt has been made to impress an idea that it was adopted without mature deliberation, and hurried through its different stages in a reprehensible manner. If we are not willing to be misled by pretext, let us examine what was the fact.

A recurrence to the journals of the House will prove that the subject of the Judicial Establishment was recommended by the President of the United States to the attention of Congress at two successive sessions. In his communication at the opening of the first session of the sixth Congress, he recommended the subject in the following terms:

"To give due effect to the civil administration of Government, and to ensure a just execution of the laws, a revision and amendment of the Judiciary system is indispensably necessary. In this extensive country it cannot but happen that numerous questions respecting the interpretation of the laws and the rights and duties of officers and citizens must arise. On the one hand, the laws should be executed; on the other, individuals should be guarded from oppression. Neither of these objects is sufficiently assured under the present organization of the Judicial Department. I therefore earnestly recommend the subject to your serious consideration."

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In the House of Representatives, this part of the President's Speech was referred to a select committee. They reported a bill which contained a variety of provisions for amending the system. The bill was referred to a Committee of the Whole, in which it was discussed several days, and was afterwards recommitted to the same gentlemen who had reported it. As it was printed for the use of the members, and the subject was extensively interesting to the community, it was

judged proper to defer a final decision until another session, and in the mean time gentlemen might have an opportunity to acquire information that would assist them to form a more satisfactory judgment.

At the second session of the sixth Congress, the subject was again recommended by the President. These are his words:

"It is, in every point of view, of such primary importance to carry the laws into prompt and faithful execution, and to render that part of the administration of justice which the constitution and laws devolve on the Federal courts, as convenient to the people as may consist with their present circumstances, that I cannot omit once more to recommend to your serious consideration the Judiciary system of the United States. No subject is more interesting than this to the public happiness; and to none can those improvements which may have been suggested by experience be more beneficially applied."

On this recommendation a select committee was appointed. That committee reported a bill to provide for the more convenient organization of the courts of the United States. The bill underwent a long discussion and a variety of amendments. It was finally passed in the House of Representatives by a majority of 51 to 43; and in the Senate by a majority of 16 to 11. After knowing these facts, will gentlemen have the hardihood to call this a hasty measure?

Compare the whole proceedings with what took place respecting a former act. Gentlemen have spoken of the general power of Congress to repeal acts passed by their predecessors. Are they prepared to repeal the act to which I now refer? It is the act relative to the temporary and permanent seat of Government, passed in July, 1790. That act was carried in the Senate by a majority of 14 to 12. In the House of Representatives, a Committee of the Whole agreed to it as it came from the Senate. Twelve different amendments were proposed in the House; the yeas and nays were taken on each of them, and every amendment was rejected—all in one day. A motion was then made for the third reading of the bill on the Monday following; the motion was negatived. It was moved that the third reading should be on the next day; this was negatived. The yeas and nays were taken twelve times during the sitting. A motion was made to adjourn; this was negatived. The general rule of the House being against reading a bill twice on the same day without special order, a motion for then reading the bill the third time was made on the part of its advocates, and carried. On taking the yeas and nays, for the thirteenth time in one day, the bill passed by a majority of 32 to 29. Mark the smallness of the majority in both Houses; the utter rejection of every amendment in the House of Representatives; the hurried manner in which it was forced on to the final question. Recollect other considerations relative to the passage of that act, and then judge whether it was not attended with circumstances signally improper. If matters of this kind constitute a sufficient cause for gentlemen to repeal any act passed by their predecessors, why should we remain here in pursuance of this act? Will any gentleman say it is for our personal convenience that the seat of Government is now at this place? Is it at present for the public convenience? Is it less expensive for individuals, or for the public, than it would be in some of your commercial cities? Have you here the opportunities for valuable information which might be had elsewhere? What, then, should detain us, if it be not a regard to stability and consistency in public proceedings, combined with a regard to the expectations of respectable persons seriously interested in the question? But if you may repeal the act organizing the Judicial system, what principle is there that ought to confine the Government to the place in which we are now assembled? Repeal this act, as is proposed by the bill on your table, and you shake the principle of public stability and consistency. Repeal this act, and there can be no principle of constitutional obligation, none of political honor, or legal right, to detain you here.

### **WEDNESDAY, March 3.**

Mr. LOWNDES moved that the further consideration of the bill be postponed until the first Monday in December next; on which a debate of considerable length ensued; when, the question being taken thereupon, it passed in the negative—yeas 32, nays 59.

And, after debate thereon, the main question was taken that the said bill do pass, and resolved in the affirmative—yeas 59, nays 32, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Phaniel Bishop, Richard Brent, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, Thomas T. Davis, John Dawson, William Dickson, Lucas Elmendorph, Ebenezer Elmer, John Fowler, William B. Giles, Edwin Gray, Andrew Gregg, Joseph Heister, William Helms, Wm. Hoge, James Holland, David Holmes, George Jackson, Charles Johnson, William Jones, Michael Leib, John Milledge, Samuel L. Mitchell, Thomas Moore, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, John Randolph, jun., John Smilie, John Smith, (of New York,) John Smith, (of Virginia,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jun., John Stewart, John Taliaferro, jun., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, John P. Van Ness, Joseph B. Varnum, Isaac Van Horne, and Henry Woods.

NAYS.—Thomas Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, William Eustis, Abiel Foster, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, Joseph Hemphill, Archibald

Henderson, William H. Hill, Benjamin Huger, Thomas Lowndes, Lewis R. Morris, Joseph Pierce, Thomas Plater, Nathan Read, John Rutledge, John Stanley, Benjamin Tallmadge, Samuel Tenney, Thomas Tillinghast, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Benjamin Walker, Lemuel Williams, and Henry Woods.

## **FRIDAY, March 5.**

### ***State Balances.***

Mr. THOMAS, from the committee appointed to inquire into the expediency of extinguishing the claims of the United States, for certain balances, which, by the Commissioners appointed to settle the accounts between the United States and the individual States, were reported to be due from several of the States to the United States, made a report, as follows:

That the following balances were, by the said Commissioners, reported to be due from the States hereinafter mentioned, to wit: From the State of New York, two millions seventy-four thousand eight hundred and forty-six dollars; from the State of Pennsylvania, seventy-six thousand seven hundred and nine dollars; from the State of Delaware, six hundred and twelve thousand four hundred and twenty-eight dollars; from the State of Maryland, one hundred and fifty-one thousand six hundred and forty dollars; from the State of Virginia, one hundred thousand eight hundred and seventy-nine dollars; and from the State of North Carolina, five hundred and one thousand and eighty-two dollars.

That, as none of these States has evinced a disposition to pay any part of those balances, except the State of New York, which has been credited on the books of the Treasury for two hundred and twenty-two thousand eight hundred and ten dollars and six cents, for money expended in erecting fortifications, pursuant to an act of Congress, passed the 5th of February, 1799; but as it would be unequal to ask a further payment from that State exclusively, and as it does not appear that any measure of coercion can ever be resorted to, a further continuance of the demands against those States, the justice and equity of which they do not admit, will, in the opinion of the committee, answer no useful purpose; but, on the contrary, is calculated to occasion perpetual irritation and disquiet, as well to the creditor as to the debtor States.

The committee are, therefore, of opinion, that it is expedient to extinguish the claims of the United States for those balances, and for that purpose report a bill, which is herewith submitted.

The report was laid on the table. The bill was twice read, and committed to a Committee of the whole House on Wednesday next.

## **WEDNESDAY, March 10.**

An engrossed bill for revising and amending the acts concerning Naturalization was read the third time, and on the question that the same do pass, it was resolved in the affirmative—yeas 59, nays 27, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, James A. Bayard, Phanael Bishop, Thomas Boude, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Thomas T. Davis, John Dawson, John Dennis, William Dickson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, John Fowler, Wm. B. Giles, Andrew Gregg, William Barry Grove, Joseph Heister, William Helms, Joseph Hemphill, William Hoge, James Holland, David Holmes, George Jackson, William Jones, Michael Leib, John Milledge, Samuel L. Mitchill, Thomas Moore, Thomas Newton, jun., Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of New York,) John Smith, (of Virginia,) Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, David Thomas, Thomas Tillinghast, Philip R. Thompson, Abram Trigg, Philip Van Cortlandt, John P. Van Ness, Joseph B. Varnum, Isaac Van Horne, Robert Williams, and Henry Woods.

NAYS.—John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, Abiel Foster, Calvin Goddard, Roger Griswold, Archibald Henderson, William H. Hill, Benjamin Huger, Thomas Lowndes, Ebenezer Mattoon, Lewis R. Morris, Thomas Plater, Nathan Read, John Rutledge, John C. Smith, Josiah Smith, John Stanley, Benjamin Tallmadge, Samuel Tenney, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Benjamin Walker, and Lemuel Williams.

## **THURSDAY, March 11.**

### ***Wyoming Controversy.***

The House went into a Committee of the Whole on the report of the committee to whom was referred the petition of sundry inhabitants of the State of Pennsylvania, settled on the lands



claimed under grants from the State of Connecticut, antecedent to the trial before the court of commissioners between the State of Pennsylvania and Connecticut.

The report of the committee embraces an historical view of the Wyoming controversy, recites the act of Pennsylvania, for preventing intrusions upon land in Northampton, Northumberland, and Luzerne Counties. The report then proceeds to state:

"The petitioners complain of these acts as unconstitutional, and pray that provisions may be made by law for transferring the proceedings under these laws from the State Courts of Pennsylvania to the Courts of the United States; and that further provision may be made by law, that in the trial of any prosecution in virtue of the said acts the defendant may have a *venire facias* to summon juries from some State, other than Pennsylvania. Your committee conceive that the right of jurisdiction was finally settled by the decree of Trenton, of the 30th December, 1783, and that by the decision of the circuit court for the district of Pennsylvania in April, 1795, the whole question of the right of soil was fully taken up and decided by the court, in a case the most favorable for the defendant; which decision not having been revised and reversed, should also be considered as final and conclusive.

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"Your committee therefore, upon the whole circumstances of the case, are of opinion, that the measures contemplated by the petitioners would tend very much to increase the embarrassments already experienced by the State of Pennsylvania, in extending and enforcing its lawful jurisdiction over the lands in question, and that it would be highly inexpedient on the part of the United States to interfere with the regulations of the States in that respect, or to countenance, by any means whatever, any circumstances of insubordination to the State authority.

"Your committee are therefore of opinion that the prayer of the petitioners ought not to be granted."

After a debate, the committee rose and reported their agreement to the report.

A motion was made and lost to recommit the report to a select committee.

It was then moved to postpone the further consideration of the report till the last day of November next. Not carried.

The question was then taken on concurring with the Committee of the Whole in their report, by yeas and nays, and agreed to—yeas 60, nays 17.

And so the petition was rejected.

### **FRIDAY, March 12.**

The House being informed that NARSWORTHY HUNTER, the Delegate from the Mississippi Territory, in this House, died last evening:

On motion, it was

*Resolved*, That a committee be appointed to take order for superintending the funeral of NARSWORTHY HUNTER, late a Delegate from the Mississippi Territory; and that this House will attend the same.

*Resolved*, That the members testify their respect for the memory of the said NARSWORTHY HUNTER, by wearing a crape on the left arm, for one month.

*Resolved*, That the SPEAKER of this House address a letter to the Governor of the Mississippi Territory, to inform him of the death of NARSWORTHY HUNTER, the Delegate from the said Territory in this House, in order that measures may be taken to supply the vacancy occasioned thereby.

*Ordered*, That Mr. LEIB, Mr. DAVIS, Mr. HOLLAND, Mr. RUTLEDGE, and Mr. LEWIS R. MORRIS, be appointed a committee, pursuant to the first resolution.

### ***State Balances.***

The House resolved itself into a Committee of the Whole on the bill to extinguish the claims of the United States for balances reported against certain States by Commissioners appointed to settle the accounts between the United States and the individual States.

Mr. THOMAS.—Mr. Chairman, I rise, with a great deal of diffidence, to deliver my sentiments on this floor, as I have not been accustomed to public speaking; however, a sense of my duty as a Representative of the United States, as well as the immediate Representative from the State of New York, impels me, on this occasion, to ask the indulgence of the Committee while I make a few remarks on the subject of the bill now under consideration.

Sir, a number of the debtor States, and particularly the one which I have the honor to represent, have always believed that they were prodigiously injured in the settlement that was made; they have always believed that there was something radically wrong, grossly unequal, in the accounts exhibited by the individual States, and allowed by the Board of Commissioners; in this belief, they have frequently called for information on the subject, for a re-examination of that settlement, and have as often been denied it.

Much might be said to prove that the very economical system adopted and adhered to by the

State of New York in limiting the prices of produce, and in liquidating the accounts of her citizens for supplies furnished during the Revolutionary war, operated particularly prejudicial to that State in the settlement. I shall, however, waive any remarks on this for the present, and confine myself principally to the rule which was adopted for apportioning the expenses of the war among the several States. Sir, the committee will recollect that by an act of Congress passed in the year 1789, the enumeration of inhabitants made in the year 1791 was adopted as the rule for apportioning this debt among the thirteen States.

I shall in the first place examine the original contract entered into by these States, and under which these expenses were incurred, and then endeavor to show the effect which, adopting an enumeration made seven or eight years after the close of the war, had upon the several States different from what the same rule would have produced had the apportionment been made according to the numbers in each State at that period, say 1784.

In the year 1778, the people of these States entered into a confederation for various purposes, one of which was, to prosecute the war against Great Britain. In the eighth article of this compact it was expressly agreed that—

"All charges of the war, and all other expenses that should be incurred for the common defence, and general welfare, and allowed by the United States in Congress assembled, should be defrayed out of a common treasury, which should be supplied by the several States in proportion to the value of all lands within each State granted to or surveyed for any person as such lands and the building and improvements thereon should be estimated, according to such mode as the United States in Congress assembled, should from time to time direct and appoint."

This, Mr. Chairman, was the agreement under which this debt was incurred; and here allow me to ask the honorable gentleman from Massachusetts (Mr. BACON) whether he was correct when he told us the other day that this settlement had been made agreeably to the articles of Confederation; and, further, whether, agreeably to that compact, the State which he represents would have been allowed for her losses in the Penobscot expedition, which has enabled her to become a creditor State of upwards of one million two hundred thousand dollars, and more than one-third of the whole amount of the balances. Sir, had the original agreement under which these expenses were incurred been adhered to in the settlement, no one ought now to complain; but, in order to comply with it, the expenses of the war ought to have been apportioned among the several States according to the value of the lands and buildings at the time these expenses were incurred, and I do contend that the period immediately after the termination of the war was the only proper one for carrying into effect this stipulation. I am persuaded that no gentleman on this floor will deny that the existing circumstances of the several States at that period were the most proper to determine the just proportion which each State ought to pay of these expenses, by whatever rule might be adopted. Admitting, then, that Congress had the power, and it was judged expedient to deviate from the original contract, and adopt as the rule of apportionment the enumeration of inhabitants as a more practicable one, ought it not to have had reference to the numbers in each State at the close of the war? Most unquestionably, Mr. Chairman, no gentleman will deny this, and that the year 1784 was the proper time. It may, however, be said that no enumeration was made till the year 1791, seven years afterwards. I grant it. But will this alter the justness of my position? Not at all. It must be obvious in the mind of every gentleman who has reflected on the subject, that the relative numbers in each State had changed materially between the year 1784, when this settlement ought to have been made, and the year 1791, when it was made. In order to establish this fact, I have adopted this method; I have admitted what I believe every gentleman who hears me will, without hesitation: that there has been no material variation in the increase of population in the several States since the year 1784; that the increase was nearly, if not correctly, in the same ratio between the years 1784 and 1791, with the increase between the years 1791 and 1801; that is, that the relative increase of population in the several States was nearly, if not correctly, in the same proportion for the seven years previous to the year 1791 that it was for the ten years subsequent to that period.

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This I have established as my data, by which I have ascertained the numbers in each State in the year 1784, and having apportioned the whole debt among the several States, according to the enumeration, I find the following to be the result:

That the State of Massachusetts, instead of being a creditor of \$1,248,801, she would have been a creditor for only \$863,267; that the State of Connecticut, instead of being a creditor State of \$619,121, she would have been a debtor State for \$235,419; that the State of Rhode Island, instead of being a creditor State for \$299,611, she would have been a debtor State for \$13,212; that the State of New Jersey, instead of being a creditor for \$49,030, she would have been a debtor State for \$300,201; that the State of New York, instead of being a debtor State for \$2,074,846, she would have been a creditor State for \$965,921, &c.

This, Mr. Chairman, would have been the situation of these States had the apportionment been made according to the numbers in each State in the year 1784. As for the accuracy of this statement I think I can with safety pledge myself; it is, however, open for any gentleman who will give himself the trouble to examine it for himself. The principles on which it has been made cannot be disputed, as it respects the State of New York; if any thing, it does not make enough in her favor, for it is evident that the emigration into that State from the neighboring States was greater for the first seven years after the close of the war than it has been for any subsequent seven years.

Will, then, Mr. Chairman, any gentleman hesitate a moment to pronounce the rule of



apportionment which was adopted unjust, unequal, and erroneous? Will any gentleman say, sir, that the rule of apportionment was a just one, or as just as the nature of the case would admit of, which brought the State of New York in debt upwards of two millions—two-thirds of the whole amount of the balances—when, on the principles of righteousness, on the principles of legal contract, or any other principles, but an unauthorized act of Congress, that State would have been a creditor State for nearly a million?

Mr. Chairman, I admit, as the settlement has been made, and the creditor States have received their balances, that it would be improper now to take up this subject *de novo*, and endeavor to compel those States to refund what they have received more than they were entitled to; this is not expected—it is not asked; all that is asked of you is, that you render such justice to those injured States as the present situation of this transaction will admit of; this is all that is contemplated in the bill now before us.

Sir, as to the present situation of the State of New York with respect to this subject, she has not acknowledged the justice of this claim, as was stated by some gentlemen when this question was under consideration the other day; she has uniformly denied it. It is true she did comply with the act of Congress passed in February, 1799, and has expended and been credited on the books of your Treasury for \$223,810 under that act; she did this, not from a conviction of the justice of the claim, but from motives which have always actuated her conduct, as well during the Revolutionary war as since, to do every thing in her power for the general welfare of the nation, whenever its exigencies required it, and also from an expectation that the other States called debtor States would do the same, and thereby get rid of an evil which she considers as having a tendency to alienate the good will and cordial affection so necessary to be cherished between these States—a cause, sir, which has and will, while it is suffered to exist, occasion perpetual irritation and disquiet, as well to the creditor as to the debtor States, and which may at some future period produce consequences more fatal.

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I say, sir, these were her motives in agreeing to that measure; and did she not evince a magnanimous spirit by doing it? a willingness to suffer an additional injury herself, rather than not remove a cause which might put in jeopardy the peace and harmony of these United States? But, Mr. Chairman, as it can answer no useful purpose to have the remainder of the money expended in the manner directed by the act—and this I am warranted in stating to the committee, not only as my own opinion, but as the opinion of the gentleman who was employed under Government as an agent or commissioner to superintend the expenditure already made—as no other State has evinced a disposition to extinguish these balances by paying any part of them, or by complying with any of the terms heretofore offered by Congress; and as it must be admitted on all hands that Congress have no power to effect it by eviction, I ask gentlemen if it would be just or reasonable that the State of New York, who has been injured more in the settlement than any other State in the Union; who has already paid upwards of \$220,000 towards these balances, and who is the only State that has, or in all probability ever will, pay a cent towards them—I say, I ask gentlemen of the committee whether it would be just that that State should now be driven to one of two alternatives; either to draw near a million of dollars from her citizens and expend it where it will answer no useful purpose to the State nor to the nation, or to withhold any further appropriations, and thereby incur the imputation of having violated her faith? I call upon gentlemen seriously to consider whether it would not be prodigiously unjust to hold that State in this predicament; whether it would not be adding injury to injustice to do it?

Mr. Chairman, I do flatter myself that the representatives of this nation, convened here to legislate on fair and equitable principles, will not suffer a new wound to be inflicted on that State, but that they will unite with one accord in passing the bill now before us, and thereby not only heal the one already made on that, as well as several of her sister States, but remove a rock which may endanger our Federal ship.

The bill was supported by MESSRS. RANDOLPH, VAN RENSSELAER, HILL, VAN NESS, GREGG, BAYARD, SMILIE, MACON, S. SMITH, CLAIBORNE, and HOLLAND—and opposed by MESSRS. ELMER, BACON, EUSTIS, HASTINGS, and BUTLER.

The question was then taken on the committee rising, and reporting the bill without amendment, and carried—yeas 47, nays 33.

A motion was then made that the bill be engrossed for a third reading on Tuesday, and carried—yeas 47, nays 35.

A motion was then made by Mr. LEIB to recommit the report of the select committee on which the above bill was founded, in order to correct an erroneous statement in relation to Pennsylvania.

## MONDAY, March 15.

### *French Spoliations.*

Mr. GRISWOLD said, that he hoped the resolution which he had laid on the table for indemnifying for French spoliations would be first taken up. It was important, before a decision was made on the repeal of the internal taxes, that the extent of indemnities made by Government should be known. He therefore moved a postponement of the bill on internal taxes till to-morrow, that, in the mean time, his motion might be acted upon. He concluded by desiring the yeas and nays.

The motion of Mr. GRISWOLD is as follows:

"*Resolved*, That it is proper to make provision by law towards indemnifying the

merchants of the United States for losses sustained by them from French spoliations, the claims for which losses have been renounced by the final ratification of the Convention with France, as published by proclamation of the President of the United States."

Mr. LOWNDES observed, that it was nearly two months since the committee was raised, to whom had been committed the petitions of merchants praying indemnities; notwithstanding this length of time, the committee had not yet met. He hoped this resolution would induce the committee to meet.

Mr. S. SMITH said, that he had presented the first petition on the subject of French spoliations, and that it had been immediately referred to a select committee, who, though they had made progress in the business committed to them, had not considered it fair to decide until all the petitions expected on the subject had been received. One indeed had been presented only this morning. Mr. S. asked if this mode was not perfectly just and fair? For himself, on this subject, he was precluded from voting, as he was deeply interested in the decision of the House. He mentioned this circumstance that the reason might be understood why particular gentlemen from different parts of the Union did not vote on this question in its several stages.

Mr. LOWNDES said he did not consider the right of deciding the principle delegated to the select committee. That must be decided in the House. It was the duty of the committee barely to make arrangements to protect the House from imposition on the score of facts. If it shall be determined by the Government, that it is improper to make compensation—though he thought such a decision scarcely possible—the select committee may be discharged. If, on the other hand, it is thought proper to compensate, the committee may go into the investigation of details.

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Mr. MITCHILL felt it an obligation, that the case of those whom he had the honor to represent, and that of the other merchants in the United States, should be taken up and receive from this House the most deliberate and serious consideration. He had before submitted to the House his ideas on the proper course to be pursued, which it was not necessary for him to repeat. He would, however, observe, that the resolution now made was so broad as entirely to defeat its object. The first reference of this business was to a select committee instructed to examine all the papers and documents in relation to it, with an instruction to report their opinion to the House; on receiving which the House might be able to come to a decision. On the other hand, the present proposition goes to commit the House on the whole extent of the subject without any examination whatever.

Mr. M. said, he would suggest a few reasons, which satisfied his mind that a decision should not be too rapidly pressed. The vessels taken by the French admitted of various classifications. One class consisted of those that were captured before the dissolution of our treaty with France; another class, of those which were captured after that event; another class, of those that were captured by picaroons without commissions; and another class, where captures were made on account of contraband goods. All these classes involved distinct considerations; and when the subject was presented to the House in a form so complicated, was it proper precipitately to decide a principle that might bind the Government to make indemnity for all cases whatever?

Mr. M. said he had no doubt but that such property of the citizens of the United States as came fairly under the character of spoliated property, would be considered as a fit subject of indemnity. He was one of those who thought that in such cases payment ought to be made. He considered the merchants as a very important class of citizens, and that their interests ought to be protected. This he thought the more necessary from the consideration of the bill on the table, which, when passed, will render the Government very dependent on mercantile credit.

Mr. M. was of opinion that the best way of accomplishing the object of the merchants was not to precipitate the subject. On the other hand, he was of opinion that the best chance of success would arise from an examination of the various classes of spoliations, from separating them from each other, thereby enabling the House to act understandingly upon them. The resolution of the gentleman from Connecticut was so vague as not to be susceptible of any distinct meaning. He hoped, therefore, the subject would be suffered to undergo a full and deliberate investigation in the select committee, which he, as a member of that committee, assured the House was progressing as fast as a sense of justice and a regard to our merchants require.

Mr. DANA.—The object of the present motion is to take up the resolution of my colleague, and to take order upon it—not to decide definitely upon it. This being the true question, I hope the gentleman from New York will not think it improper in me to say that many of his remarks do not apply to it. As the question is not whether we shall immediately decide the point, but only place it in a train for decision, it must be discussed either in a Committee of the Whole, or in a select committee; and we ask the House now to decide which, that it may be progressing towards a final decision.

The resolution states a general principle. If it is the fixed determination of the majority, without an inquiry, not to grant any relief whatever, there is an end of the business. But if you agree to grant any relief, the resolution ought to be adopted. The principle is then established of indemnifying; after which you may discriminate.

The principle on which the resolution is founded is not that Government has declined to insist upon the claims of its citizens against the French; but that it has undertaken to abandon their claims, so that no citizen can now come forward with his claim either against the French Government or any citizen of France. For this is the construction of the treaty as finally ratified by the Government. It is a complete surrender and renunciation of all demands. Among the first claims of our citizens are some of private right, which were it not for the treaty, could be

recovered in the courts of France, but which the treaty bars. This constitutes a class of claims which the Government cannot refuse to indemnify. There are other descriptions of claims which might require discrimination; in some of which the degree of compensation should be varied, and others in which there should be no compensation whatever. I think, therefore, it is proper for the Government to say the business shall be attended to; at some future time an inquiry may be made into the nature of the various claims. This is all we ask.

Mr. GRISWOLD said that the gentleman from New York had misapprehended the order of proceeding in that House. He supposes the present resolution so vaguely worded as to be improper to be passed. But, if taken up, that very gentleman may offer any amendment he pleases. I do, however, apprehend that it is so worded as to bring the subject fairly before the House. It is worded even with caution. Its sole object is to bring the principle of indemnity before the House, unfettered, that its decision might not be embarrassed by any details; supposing there would be an indisposition in the House to pledge the nation to an unlimited extent, the words used are, "towards indemnifying." Gentlemen, therefore, who are disposed to do any thing, can feel no objection to a resolution so qualified. Other parts of the resolution are worded with equal caution, so as to extend only to cases where losses are renounced by treaty. Are gentlemen unwilling to indemnify for such losses?

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This is a principle proper for decision in Committee of the Whole. Why take it to a select committee? It involves no details; it requires the elucidation of no facts. We know the losses of our merchants, and we know the treaty has renounced them. The House is, therefore, prepared to say whether it will or will not indemnify. When the principle is decided, it may be sent to a select committee to settle the details. I hope that it will be taken up, and an early day fixed for consideration.

The gentleman says the committee are progressing. It may be so. Though I observe the gentleman from South Carolina says the committee has not yet met. How progressing? Without meeting? I do not understand this new mode, though I will not say that it is not a very correct mode. The gentleman further says the committee have not progressed because they wished to have first all the petitions before them; but the principle to be settled is as much involved in one petition as in all.

Mr. GREGG said he should not have risen but for the remarks of the gentleman from South Carolina, and after him those of the gentleman from Connecticut, who had stated that the committee had not met. Being a member of the committee he would inform those gentlemen that the committee had met; that they had perused a number of the papers, and had determined that it was improper to proceed until they had received documents that would show the extent of the claims.

As the business now stands, we find it referred to a select committee, instructed to examine the papers, and report their opinion thereupon. This report will form the grounds of decision for the House. Now the gentleman would wrest the business from the committee, and urge the House into a decision without any of the necessary information. The attempt was unprecedented. Mr. G. said he never knew a similar instance where the select committee had not been previously discharged.

Mr. LOWNDES rose to explain. He said that when he informed the House that the committee had never been called together, he had been induced to say so, from never having been himself notified, though a member of the committee.

Mr. BAYARD thought the motion ought to prevail for the reason assigned by the honorable gentleman from Connecticut. He has properly remarked that we are not now called on to decide the abstract question, but only to say what course of proceeding shall be pursued. The point ought now to be decided whether the business shall be sent to a select committee, or to a Committee of the Whole. The gentleman from Pennsylvania says it is altogether unprecedented to take a subject out of the hands of a select committee. But this will not be the effect of the resolution; which will only facilitate the business before the committee, and shed additional light on the path they ought to pursue. We do not wish to interfere with the operations of the committee, but to decide a question that will greatly facilitate their proceedings, and which question ought to be settled in a Committee of the Whole. It is peculiarly and strikingly proper to postpone the question of repealing the internal taxes until a decision shall have been made on these claims. Not that we are anxious to decide upon them immediately, but because we are solicitous not to prejudice all claims to indemnity by repealing the very taxes on which the indemnity must depend. Do gentlemen mean to decide at once thus precipitately against all indemnity whatever? If they are not in favor of so deciding, surely they will not be for immediately deciding on the internal taxes.

Let the gentleman from New York classify the claims as he pleases, can he tell the extent of the demands? May they not amount to five million or ten million of dollars? And if to either sum, can we with propriety dispense with the internal taxes? It appears from the report of the Secretary of the Treasury that the whole of the revenue for the year 1803 and 1804 will be wanted. If, then, these claims shall be allowed, and shall produce an increase of the public debt, the fund derived from the internal revenue will be required.

It is cruel to decide at once against the claims of our merchants. If it is predetermined not to give them relief, at least allow them the consolation of a hearing. Whoever votes for now taking up the question of the repeal of the internal taxes, votes, not only against indemnifying, but also against hearing the merchants; because he votes away all means of indemnification. It is hard, peculiarly hard, that at the moment when you are about to throw the whole burdens of the Government

upon the merchants, you should deny them a hearing, an impartial hearing, of their claims. Suppose there should be a combination of these men, seeing the Government act towards them with such flagrant injustice, to refuse all importations. I ask, if you do not, by such treatment, put the Government entirely into their hands?

If gentlemen will agree to postpone the question of internal taxes, we will agree to postpone this question, if they are not prepared to decide upon it. The subject of the internal taxes is the least pressing of all the subjects before the House. The bill, indeed, ought not to pass until we know the appropriations that are necessary to be made for the present year. Have gentlemen shown, can they show, that with propriety these taxes can be dispensed with from any retrenchments that can be made in our expenditures? I do not know any official document on this point, except that of the Secretary of War, who, in his very correct report, says there will be a saving in his department of a little more or less than \$500,000; which report I confess I do not understand. The Committee of Ways and Means say there will be a retrenchment in the War Department of a sum not exceeding \$400,000; which mode of expression I do not precisely comprehend. Surely we ought to know with precision the sums that will be required for the objects of the Government before we abandon our resources.

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Mr. EUSTIS thought the object of indemnity to our merchants very important both in its nature and its consequences. And, first, as to its amount, it was known to be great. The consequence of these applications will be a hearing, and procedure thereon. And the amount of the claims, as well as the nature of them, ought to have great influence on the deliberations of the House. And yet we talk of deciding the abstract question, when the very facts on which we are to decide are not before us. For it will be perceived by the public prints that the claims of the merchants of the State of Massachusetts are not yet brought forward. The necessary evidence is not before the House. I appeal to the gentlemen to know how we are to act, understandingly, if the subject be taken up now. What is the abstract question? Will gentlemen say they will pay all demands before they know any thing of their nature or amount?

The claims of our merchants are very serious, and merit great consideration. But the revenue, which gentlemen are so anxious to retain, to them will be but as the light dust in the balance. I presume that the losses of the merchants of Massachusetts alone are not less than five to ten millions of dollars. But to act understandingly upon them we must have evidence as well of their amount as their nature, both of which we at present want.

Mr. RUTLEDGE.—I am sorry the resolution of my honorable friend from Connecticut is not acceptable to the gentleman from New York. It is not the least indelicate to that committee. On the contrary, were I a member of that committee, I should feel infinitely gratified by it. I would ask solicitously, whether it were possible that Congress would agree to this principle before the details were gone into. We are now for giving that information to the committee.

The honorable gentleman says this resolution conveys no light. But I will say, that, if adopted, it will confer not only light, but comfort to our merchants. It will foster their hopes, and animate them to meet the difficulties under which they are staggering.

The gentleman from Massachusetts says there is no evidence of fact. What fact? Surely he will not say there is no evidence of the French having condemned our vessels, and of their having committed vast spoliation. If this were so, how happens it that an American embassy had demanded compensation; and that, on the ulterior negotiations of the Government, the Government had said we will abandon it, that we may release ourselves from guaranteeing to France her colonial possessions. Had this not been so, France might have called upon us to guarantee her West India possessions, and to supply her with men and money. From this situation we have been kept by those negotiations which terminated in an abandonment of the just Claims of your merchants on the French Government or her citizens. And this constitutes your good bargains.

If these are facts, we possess sufficient evidence not only to justify, but to compel our paying the merchants, if under the influence of common honesty. The amount is perfectly immaterial. Whatever it is we must pay it. It is true that of the millions claimed, Government may not in law or equity be compelled to pay more than a small part. But if you establish the principle that there shall be an indemnity made, you enable your committee to devise the mode of collecting evidences of and settling the validity of the claims.

But the gentleman from Massachusetts says these taxes, right or wrong, must be repealed. For, he says, the public expectation has already decided the question; and that, indeed, the public officers could not now collect them. But I hope, for the honor of the Government, and of the American people, this opinion is not correct.

Mr. MITCHILL begged to be indulged in making a few observations on what had fallen from the gentleman from South Carolina. I do not know that these observations will satisfy his mind, but they will at least serve to justify my own character as a Representative of a portion of the Union respectable for its mercantile opulence. I believe the subject of indemnities, in the contemplation of gentlemen, has swelled much beyond its real magnitude. *I believe that a large portion of losses were so covered by insurance that Government will not be obliged to pay for them.* I feel as sincerely for the merchants as any gentleman; yet I do not wish to swell the subject to an improper magnitude. Suppose, as the gentlemen wish, we say we will indemnify, does that pay the claims?

Besides, it is not so evident, as some gentlemen assert, that our merchants have been deprived of valuable rights by the mode in which the French Convention has been ratified. Let gentlemen

recollect the mass of depredations committed by Great Britain, and the engagements, under treaty, of the British Government to make reparation for them. Yet, notwithstanding this engagement, reparation has been to this day evaded, under the pretext that the claims under one article depend on the construction given to a preceding article. Now, suppose in the French Treaty there were the same provisions as in the British Treaty, would this have produced payment? No. The operations under the treaty might have gone on as long as under the British Treaty, with the like effect, and without any substantial provision being made. I state these circumstances barely to show that the renunciation in the French Treaty is not so grievous as some gentlemen imagine.

It is manifest that an inattention to similar claims has been considered as less a departure from right among nations than among individuals. And, judging of the future by the past, my opinion is that a retention of the article stricken out of the French Convention, would not have benefited the claims of our merchants, or afforded them any adequate eventual compensation. In France, as on the other side of the Channel, there would have been claim raised against claim, pretext against pretext, and the boards for adjusting the several claims might have been, in this case, as in the other, dissolved.

It is said by the gentleman from Delaware, that it is the object of gentlemen on his side of the House to prevent a repeal of the internal taxes. Though I admire the gentleman's candor, I believe it is needful to repeal these laws. I believe, too, the people wish them repealed. But I further believe, that if future events shall show the necessity of restoring these taxes, the good sense of the people will restore them; and if the indemnities agreed to be made shall require them, I believe they will be restored. The work of examining these claims will be the work of years. What is the consequence? Will the present repeal of the internal taxes interfere with the doing substantial justice to our merchants? Suppose these taxes are removed, are not the products of the country increasing? and are not our resources increasing with our population? The truth is, whenever your Treasury wants a fresh supply of resources, the people will submit to what their Representatives desire. Are we to legislate for succeeding ages? No. We are to suffer our successors to act for themselves; and I have no doubt either of their ability or their inclination to do justice.

Mr. DANA.—If I understood the honorable member from New York, he admitted the propriety of making some indemnity; and if so, I could not understand why he dwelt so elaborately upon the minutiae of detail, to show why we ought not to indemnify. Nor can I yet understand him, unless his object be to let the subject sleep, and to say that the longer it is delayed, the less chance of reparation.

The gentleman says, property *insured* cannot be recovered. But is that gentleman, coming as he does from the first commercial city in the Union, yet to learn that, in the case of loss, the *insurer* stands precisely in the place of the *insured*? Is he so ignorant of this fact as not to know that the underwriter, in such circumstances, becomes entitled to the same indemnity with him who is underwritten?

With regard to the analogy attempted between the British Treaty and the French Convention, it is totally incorrect. For, in the British Treaty, we had insisted upon the claims of our merchants to reparation by Britain, or her subjects; whereas, in the French Convention, we had renounced all claim. Nor were the remarks of the honorable member more fortunate respecting the operations under the British Treaty; for he must know that our merchants have, in many cases, received compensation under it.

One concession has been made which I did not expect would be avowed so early, either by the gentleman from Massachusetts or the gentleman from New York; a confession that is founded on the principle that the House, before examining the important details which ought to regulate their decision, are so placed by the head of the Executive ministry, that certain taxes, recommended to be abrogated, must be repealed. You must repeal them. The public clamor is excited, and you must obey it. I did not suppose it would so soon have been avowed that we are under the absolute rule of Executive influence, and that, to obey it, we are compelled to perjure our understandings.

Mr. BAYARD.—The honorable gentleman from Massachusetts has thanked me for the candor of my avowal that I am opposed to the repeal of these taxes. But I do not wish to be thanked for more than I really said. It is true, that I do not think this the proper time to repeal all of those taxes, because I do not know that Government may not want them.

The gentleman from Massachusetts has broached a new species of ethics. He says, if the amount of claims shall be small, we may pay, but if large we cannot. But I will tell that gentleman I have never acknowledged such a principle of morality. I believe if the merchants have a just demand for one dollar, we must pay it; and if they have a just demand for one hundred millions, we must pay that too. Nor can I too forcibly express my astonishment at an opposite principle avowed by this House.

The gentleman says you want evidence, and therefore ought not to act. But can you examine each distinct case? If the subject goes to a select committee, and they shall be allowed years to decide, still they will have to establish some principle; for instance, that a certain description of vessels was captured unjustly by the French; that the injured merchants had a moral claim on the French Government for reparation; that the United States had bartered away their rights, and that Government, in consequence, is bound to indemnify. If the House decide that the Government is bound to relieve in one case, are they not bound to afford relief in all similar cases? Will you not, then, be obliged to make a general provision that all claims, so circumstanced, shall be allowed?

Here is a great mass of claims; some made now, and some not likely to be made for years. What more, then, can you do, than decide the principle which shall be applied to them?

My opinion as to indemnity is, that whoever had a valid claim against the French Government, which the United States extinguished, has a demand against the United States, which she must satisfy. Put the case to its consequence: Will gentlemen tell me whether, according to any principle of morality, where you have taken from your citizens all chance of recovery, you are not bound to indemnify for that of which you have deprived them? Where the French Government was not bound to pay before the convention, you are not now bound to pay. So, in the case of war, you are not bound. But where the claim on the French Government was perfect, and you destroyed that claim, your obligation to pay cannot be evaded. I wish to know if the establishment of this principle requires facts?

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With respect to the circumstances of particular cases, this House cannot act. On those numerous grades of credibility that will be attached to the various claims that shall be made, you cannot decide. To effect this you must establish some competent tribunal. You can establish the principle; but the details could not be settled by Congress, even if their attention were exclusively directed to that subject, in three years. Having decided the principle, it will be proper to leave the application of it to your courts of law.

Mr. BACON hoped that a great deal of time would not be spent in exploring the secret motives of individual members. He supposed they should all stand or fall on their own consciences. He hoped, therefore, they should have the question.

Mr. S. SMITH.—I am against the proposition of the gentleman from Connecticut, because to act now upon it will be in direct opposition to the uniform order of the House. If our attention is thus to be withdrawn from every important object before us, I do not know how we are possibly to progress with the public business. I know of no case, where a particular subject has been referred to a select committee, and it has afterward been taken up in the House, while it remained with the committee. I should have understood the motion, if it had been to discharge the select committee, and to refer the subject to a Committee of the Whole.

As gentlemen, however, have taken so wide a range in the field of debate, I hope their course will produce a saving of time, and that we shall not have their speeches over again on repealing the internal taxes.

It is not my purpose, at this time, to enter into a discussion of the claims of our merchants, because I think this is not the proper occasion. But I will tell gentlemen, that if they were disposed to destroy those claims, they could not have pursued a plan more effectually calculated to do it. Had such been my intention, I would have offered a resolution so broad and vague as to alarm the whole community as to the amount of indemnity. I would have endeavored to throw the censure attached to their losses on the present Administration. I would have opposed their claims to the wish of the nation to repeal the internal taxes. All these steps I would have taken to frustrate any indemnity; and they are just the steps taken by gentlemen who profess so strong a regard for the merchants. Let me tell those gentlemen until they shall pursue a far different plan, we must doubt whether they are in earnest to pay the merchants for their losses.

If the public business is to be thus perpetually procrastinated, I hope the gentlemen with whom I act will be firm enough, after rejecting this motion, to pursue the other business even to a late hour.

The yeas and nays were then taken on Mr. GRISWOLD'S motion, to postpone taking up the bill on internal taxes till to-morrow, in order to take up his resolution on French spoliations; and decided in the negative—yeas 33, nays 54.

## **TUESDAY, March 16.**

### ***State Balances.***

The bill for extinguishing State balances was read a third time, when Mr. DAVIS moved its postponement to the first Monday in November.

This motion was supported by MESSRS. DAVIS, BACON, ELMER, and GODDARD, who declared themselves adverse to the passage of the bill; and opposed by MESSRS. BAYARD, T. MORRIS, RANDOLPH, and NICHOLAS, who declared themselves in favor of the bill.

Mr. GRISWOLD delivered his sentiments against the postponement, declaring, however, his determination to vote against the passage of the bill.

The question of postponement was taken by yeas and nays, and carried—yeas 48, nays 42.

## **WEDNESDAY, March 24.**

A new member, to wit, WALTER BOWIE, from the State of Maryland, returned to serve in this House as a member for the said State, in the room of Richard Sprigg, who has resigned his seat, appeared, produced his credentials, was qualified, and took his seat in the House.

## **MONDAY, March 29.**

An engrossed bill, making a partial appropriation for the support of Government, during the year

1802, was read the third time and passed.

Previous to its passage, conversation took place respecting an alleged looseness of appropriation. This objection was made by Mr. GRISWOLD, and supported by Mr. DANA, who were of opinion that the sum in the bill should be more specifically appropriated.

The objection was repelled by Messrs. MILLEDGE, GILES, ELMENDORPH, RANDOLPH, and ALSTON, who contended that the objection did not apply, and that no inconvenience could arise from a partial appropriation made in the bill and contemplated for a definitive object.

A motion made to recommit the bill was lost; when the bill passed—yeas 45.

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## **TUESDAY, March 30.**

### ***Funeral Expenses of Members.***

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That, in case of the death of a member of the House of Representatives at the seat of Government, while Congress is in session, the expenses accruing, in conformity to an order of the House, made to testify their respect for the deceased member, shall be paid out of the contingent funds of the House, and not out of his wages for travelling home, as is now allowed by law:

*Ordered*, That the said motion be referred to Mr. DAVIS, Mr. LEWIS R. MORRIS, and Mr. NICHOLSON, to consider and report thereon to the House.

## **WEDNESDAY, March 31.**

### ***Funeral Expenses of Members.***

Mr. DAVIS, from the committee to whom was yesterday referred a motion respecting "members of this House dying at the seat of Government during a session, of Congress," made a report thereon; which was read and considered: Whereupon,

*Resolved*, That the expenses accruing by order of the House, in attending the funeral of NARSWORTHY HUNTER, a member from the Mississippi Territory, be paid out of the contingent funds of the House.

*Resolved*, That the legal representatives of a member of this House, who shall die at the seat of Government during the session, shall be entitled to receive the same allowance for his itinerant expenses, as the member would have been entitled to, had he returned to his place of abode.

### ***Ohio State Government.***

The House went again into Committee of the Whole on the report of a select committee respecting the admission of the North-western Territory as a State into the Union.

The second resolution being under consideration,

Mr. FEARING referred to the provisions of the ordinance empowering Congress to divide the Territory, from which he inferred that Congress had not the right to divide the Territory so as to form one part of it into a State, while the remaining section was not made a State, without the consent of the Territory; he conceived that Congress must, in such event, form this section also into a State. He, therefore, was of opinion that Congress must consult the people of the Territory before they shall divide the Territory.

As to the expediency of the resolution, he thought it very expedient to make the division therein marked out. The effect of it would be that the whole of Lake Erie would be thrown out of the State to be formed, and the inconvenience to the section of the Territory not incorporated in the new State would be very great, if it should be attached to the Indiana Territory, from its great distance, which he understood was contemplated.

Mr. GILES said that the committee who reported these resolutions, so far from entertaining a disposition to change the ordinance, had strictly observed the conditions therein prescribed. [Mr. G. here quoted the ordinance.] It appeared therefrom that Congress was under an obligation, after laying off one State, to form the remainder into a State. But when? Hereafter, whenever they shall think it expedient to do so.

Mr. BAYARD agreed that there was no obligation imposed upon Congress to decide definitively the boundary of a State. If the ultimate right of Congress, after the formation of a new State, to alter the boundary be doubted, they have a right to remove all doubts by so declaring at this time. It is certain that at present great inconvenience would arise from drawing the boundary as fixed in the resolution.

The population of the Territory does not amount to that which is sufficient to give it admission into the Union. He had, however, no disposition to oppose its admission, notwithstanding this circumstance. The population in the Eastern State does not exceed forty-five thousand. We are now about to pare off five or six thousand inhabitants, which will bring it down to thirty-nine thousand. A population of forty-five thousand is quite small enough for an independent State. It is a smaller population than exists in any of the present States in the Union. From this

consideration, it might have been expected that Congress would take no step whose effect would be a diminution of that population.

The division, as made in the resolution, is manifestly unjust, as far as it relates to the people north of the dividing line. By it they are about to be severed from their connection with the other portion of the Territory. Mr. B. wished to know to whom they are to be attached? If attached to the Indiana Territory, the inhabitants, to arrive at the seat of Government, will be obliged to go across the new State, a distance of two or three hundred miles. Besides, after having advanced them to the second grade of territorial government, you will consign them back again to the first, and thereby give them a system of government extremely odious, and which we ought to get rid of as soon as possible. Thus, after having held out to them the flattering prospect of being elevated to the high rank of a State, you degrade them, contrary to their expectations, to the humblest condition in the Union. Mr. B., therefore, thought it would be most just and politic to include this population of five or six thousand in the bounds of the new State, subject to the reserved right of Congress to alter the boundary hereafter.

Mr. GILES said he was not tenacious of his opinions; but it was necessary to justify the contents of the report by stating some considerations that might not be generally known to the members of the House.

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Mr. G. said he supposed the section of the Territory, not embraced in the new State, would be attached to the Indiana Territory; nor would any great hardship result from this disposition; and such as did result would arise from their local situation and not from any circumstances over which the National Legislature had a controlling power. He believed that people, to reach the seat of Government, had as far to go now as they will then have. His object was to reserve in future to Congress the right of determining the boundary of the States in the Territory. If this section should once be admitted, he believed it would be very difficult, however proper, to detach it from the State to which it had become attached.

The report contemplates the forming a constitution. Should the people on the northwardly side of the line be admitted as a part of the State, they will participate in the formation of the constitution—a constitution which will not be ultimately for themselves, but after a short time exclusively for others. This participation would be unjust. The question then is, whether you will suffer those to form a constitution who are not to be permanently affected by it; and whether, if you once constitute a State, you will be able hereafter to alter its boundaries? For if this section be now admitted, gentlemen, by looking at the map, will see that the boundary now fixed cannot be permanent.

As to the remarks made by the gentleman from Delaware, Mr. G. said he was extremely glad that gentleman was for giving to the Territory the right of a State. If, however, he had attended to the report, he would have found that his calculation of numbers was incorrect. The population of five thousand had been deducted by the committee, and after that deduction forty-five thousand remained. Though the numbers in the Territory proposed to be formed into a State amounted, a year ago, to no more than forty thousand, yet it might be stated upon strong ground, that, before the new government can get into operation, there will be a sufficient population to demand admission as a matter of right. By attaching the inhabitants on the north of the line to the Indiana Territory, they will remain in the same grade of government they now are, and not be degraded, as stated by the gentleman from Delaware, to a lower state. This disposition appeared to Mr. G. the best that could be made. But if, when gentlemen came to the details of the bill, it should be thought best to introduce into the new State the population north of the line, he said he might have no objection.

Mr. FEARING stated the great inconveniences that would be felt by the inhabitants north of the line, if attached to the Indiana Territory. He considered the remarks of the gentleman from Virginia, (Mr. GILES,) respecting the participation of this description of citizens in forming a constitution for others, as entitled to little weight. Such a measure was by no means uncommon. It had been done in the case of Kentucky, and other States.

Mr. F. conceived that the people of the Territory had all equal rights under the ordinance; they had been virtually promised that they should not be attached to any other Western Territory, and Congress had only reserved to themselves the right of admitting them into the Union as States. More they could not do, without their consent.

Mr. BAYARD moved to strike out of the resolution the words that fix the boundary, for the purpose of introducing words that should prescribe that the new State be circumscribed by the original boundaries of the Eastern State, referring to Congress the right of making one or more States in said State at any future time.

Mr. GILES said that the State, as formed in the report, was one of the most compact and convenient in the Union. The amendment would materially change its character. Besides, it would in fact impair the right of Congress to accommodate the boundaries to future circumstances. It was well known, and sensibly felt, that there were many inconvenient boundaries to several of the States now in the Union; yet so great was the difficulty attending their alteration, that they could not be changed.

Mr. BAYARD was not so sensible of the difficulty of altering the boundaries as the gentleman from Virginia, who had stated that Congress would not have power to alter them when once fixed. This difficulty might exist as to the States now in the Union, because Congress had not the constitutional power to alter them without the consent of the adjacent States. But if this power be referred to Congress, which will be a disinterested tribunal, there will be no difficulty in varying



the boundaries as circumstances shall dictate.

Mr. B. asked, if, while gentlemen are attending to the interests and wishes of one part of the people, they are disposed to disregard the interests and wishes of another part? If they were not, they ought to admit the section, proposed by the resolution to be cut off, to a participation in State rights.

Mr. BACON objected to the amendment. He said that Congress were vested by the constitution with certain powers which they cannot increase, or diminish, or delegate. By the constitution likewise, the several States are vested with certain powers which they cannot increase, diminish, or divest themselves of. By the third section of the fourth article of the constitution, "new States may be admitted by the Congress into the Union." This act proposes to make this Territory a State with State powers under the constitution. How, then, can these people, once a State, divest themselves of these powers. This is a question that does not interest simply the State proposed to be formed, but every State in the Union. All are equally interested in preserving the powers vested in them by the constitution.

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Mr. BAYARD said he did not see any occasion for striking out the proviso. The gentleman from Massachusetts (Mr. BACON) goes on the principle that Congress has only a right to admit, without any reservation. Mr. B. said he had always believed the greater included the smaller. If you are vested with the greater power of admitting, you have certainly the minor powers included in the greater power. From the nature of the ordinance, it constitutes the fundamental principle on which the States are admitted—they are not admitted under the constitution. They are to be admitted exclusively under the provision of the ordinance. You may, therefore, say that you will not now exercise the whole power committed to you, but reserve the right of exercising it hereafter.

Mr. SMILIE did not consider the principle laid down by the gentleman from Delaware as constitutional. We must be governed by the constitution. If the Territory be admitted as a State into the Union, when admitted it must be bound down by the constitution, which says the boundaries of States shall not be altered but with the express permission of the State.

Mr. GILES—The gentleman from Connecticut, (Mr. GRISWOLD,) affects lately to have discovered a great deal of disguise in the proceedings of this House. What disguise? What were the committee to do? This country is placed in a certain peculiar situation. We have waters running to the East—then to the West; and the committee thought it was desirable to connect these by good roads. With the committee, State principles or interests had no influence—they were governed entirely by general principles and the common interest.

The gentleman has also insinuated that the Secretary of the Treasury holds lands that will be benefited by these roads. It may be so. Mr. G. had not inquired; but he supposed he did not hold all the lands. Congress may lay out these roads as they please. He could foresee how Congress would lay them out, and it is a million to one that they will not touch his lands.

The United States are about making a new contract. These propositions are made as additional securities for the national property. The Secretary of the Treasury having estimated the annual product of these lands at four hundred thousand dollars, Mr. G. said, as chairman of the committee, he had applied to him to know his opinion of the manner in which this sum could be best secured, and he gave his opinion that this provision would be most likely to effect that object. This is all the mystery and disguise attending the resolution.

Mr. SMILIE said when gentlemen charge particular States with injustice, they ought to be prepared to prove what they advance. If there had been any co-operation between the delegations of Virginia and Pennsylvania on this occasion, he had never heard of it. The fact was, that no peculiar good could result to Pennsylvania from this measure. The great object was to keep up that intercourse which will attach the people of the Territory to you. When the Territory shall become a State, she will have a right to tax your lands. This benefit, together with the salt-springs, as I understand, is proposed as a substitution for the relinquishment of those rights.

Mr. FEARING said he considered a part of the rights of the Territory given up by this resolution; and though the Territory would be highly benefited by the projected roads, and the cession of the salt-springs, yet he conceived they would be much more benefited by laying out the roads within the Territory.

Mr. GRISWOLD said he was glad the honorable gentleman from Virginia had assured the House there was no disguise in this business. If the object be to make an advantageous contract with the Territory to secure our Western lands, let us offer them five per cent. of the proceeds of those lands, to be paid into their treasury. If they shall be disposed to make roads through Pennsylvania and Virginia, he should have no objection.

He was as sensible as the gentleman from Virginia, that whatever improves a part of the Union improves the whole; though this was undoubtedly the case, he was not of opinion that a sum of money should be taken from the public treasury, and specially applied to local purposes. Under this resolution, according to the calculation of the Secretary of the Treasury, forty thousand dollars was the smallest sum that would be annually applied to the laying out of those roads. Mr. G. said he thought the sum too large to be withdrawn from the national treasury, and directed to local objects.

The allusion of the gentlemen to light-houses raised on the Connecticut shore does not apply. There was but one light-house in Connecticut, ordered to be built by this House, for which the *enormous* sum of twenty-five hundred dollars had been appropriated. Yet this solitary measure

had been rejected by the Senate. This is the great boon given to Connecticut!

For these reasons Mr. G. hoped the article would be stricken out, and that, if it was necessary to make terms with the new State, they might receive five per cent. on the receipts of the land, to be paid into their own treasury, disposable by themselves as they saw fit.

MESSRS. R. WILLIAMS, JACKSON, and HOLLAND, said a few words in favor of retaining the article; when the question was taken on striking it out, and lost—yeas 17.

Mr. FEARING, wishing that half the proceeds of the Western lands should be laid out on roads within the Territory, made a motion to that effect; lost—yeas 25.

The report of the select committee, without further amendment, was then agreed to, and a bill ordered in conformity thereto. [Pg 651]

### **WEDNESDAY, April 7.**

An engrossed bill for the relief of Thomas K. Jones was read the third time, and passed.

The Speaker laid before the House a letter from the Secretary of State, accompanying his report on the memorial of Fulwar Skipwith, referred to him by order of the House on the nineteenth of January last; which were read, and ordered to be committed to a Committee of the whole House on Friday next.

Mr. JOHN C. SMITH, from the Committee of Claims, to whom was recommitted, on the fifteenth ultimo, their report on the memorial of Paul Coulon, a French citizen, made a supplementary report thereon; which was read, and ordered to be referred to a Committee of the whole House to-day.

On motion it was *Resolved*, That a committee be appointed to examine and report the state of the office of the Clerk of this House.

*Ordered*, That Mr. CLAY, Mr. HUGER, and Mr. SOUTHARD, be appointed a committee pursuant to the said resolution.

Mr. MITCHILL, from the committee to whom were referred, on the fifth instant, the amendments proposed by the Senate to the bill, entitled "An act for revising and amending the acts concerning naturalization," reported that the committee had had the said amendments under consideration, and directed him to report to the House their agreement to the same.

### ***North-western Territory.***

The House resolved itself into a Committee of the Whole on the bill to enable the people of the eastern division of the Territory north-west of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes.

Mr. FEARING moved to amend the bill so as to embrace the population of the eastern division as bounded by the articles of the ordinance, the effect of which motion would be to include about thirty thousand inhabitants of that division, that are excluded by the provisions of the bill, and respecting whom it is provided in the bill, that they may hereafter be added by Congress to the new State, or disposed of otherwise, as provided by the fifth article of the compact.

This motion gave rise to a debate of considerable length, in which MESSRS. FEARING, BAYARD, GRISWOLD, GODDARD, HENDERSON, and RANDOLPH, supported; and MESSRS. GILES, BACON, and R. WILLIAMS, opposed the amendment.

Those who supported the amendment contended that the exclusion of that portion of territory occupied by about three thousand inhabitants was both unconstitutional and inexpedient. On the ground of constitutionality, they contended, that under the articles of the compact, which were to be considered as the constitution of the territory, Congress had only the right of forming the eastern division into one, two, or three States; and that under this power, no right existed to form one part of the division into a State, and leave the remaining section in a Territorial condition; that the rights of the whole of the inhabitants of the eastern division were equal, and if one part was, so also must the remaining part be, admitted to the privilege of a State.

On the ground of expediency, it was contended that the situation of the excluded inhabitants would be peculiarly hard; that, if attached to the Indiana Territory, they would be placed two or three hundred miles from it; that they would be furthermore degraded from the second to the first branch of Territorial government, and that they would be deprived, by the reduction of their numbers, from the prospect of being admitted for a great number of years, to State rights.

On the contrary, the opponents of the amendment contended that the provisions of the bill were both constitutional and expedient; that under the compact the right was given to Congress of admitting the eastern division into the Union, in the form of one, two, or three States; that this right involved a discretion to admit a part of that division at one time, and the remaining part at a subsequent period; that if the whole division were once admitted into the Union, Congress would be prohibited from dividing hereafter, when it was acknowledged such division would be expedient, the said division into two or more States, without the consent of the State now formed.

That, as to considerations of expediency, the hardships likely to be felt by the excluded inhabitants were such as arose, not from the provisions of the bill, but from their local situation; and that it was not true that they would be degraded by annexation to the Indiana Territory; to a

lower grade of Territorial character than they at present enjoyed—the grade being the same.

Mr. RANDOLPH supported the amendment on peculiar ground, declaring that if the amendment should not prevail, he would still vote for the admission. He declared himself in favor of the amendment, principally from a desire to avoid the introduction of too many small States into the Union.

The question was then taken on Mr. FEARING's amendment, and lost—yeas 34, nays 38.

Mr. FEARING moved so to amend the bill as to leave to the new State the right of naming itself. Agreed to.

After some discussion of the details of the bill, the committee rose and repeated the bill, with amendments.

*Ordered*, That the said bill, with the amendments, do lie on the table.

### THURSDAY, April 8.

Mr. JOHN TALIAFERRO, Jun., from the committee to whom was referred, on the fifth instant, the petition of sundry citizens of Georgetown, in the District of Columbia, with instruction to report thereon by bill or otherwise, presented a bill to incorporate the Directors of the Columbian Library Company; which was read twice, and committed to a Committee of the whole House on Monday next.

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Mr. DENNIS, from the committee to whom was referred, on the fifth of February last, a motion, in the form of two resolutions of the House, "respecting the adjustment of the existing disputes between the Commissioners of the City of Washington, and other persons who may conceive themselves injured by the several alterations made in the plan of the said city; also, relative to a plan of the said City of Washington, conformably, as nearly as may be, to the original design thereof, with certain exceptions," made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Monday next.

Mr. JOHN TALIAFERRO, Jun., from the committee appointed, presented a bill to incorporate the inhabitants of the city of Washington, in the District of Columbia; which was read twice and committed to a Committee of the whole House on Monday next.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing a statement prepared by the Register, of the application of the appropriations made by Congress for clerk-hire, in the several offices of the Treasury Department, specifying the names of the persons, and the salaries allowed to each, for the three last years, in pursuance of a resolution of this House, of the twenty-fifth ultimo; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying two statements, marked A and B, relative to expenses incurred by the United States in the exercise of jurisdiction over the territory of Columbia, since the assumption of jurisdiction by Congress, prepared in pursuance of a resolution of this House of the first instant; which were read, and ordered to be referred to the committee appointed, on the eighth of December last, to inquire whether any, and, if any, what alterations or amendments may be necessary in the existing government and laws of the District of Columbia.

The House proceeded to consider the report of the select committee to whom were referred, on the fifth instant, the amendments of the Senate to the bill, entitled "An act for revising and amending the acts concerning naturalization," which lay on the table: Whereupon,

*Resolved*, That this House doth agree to the said amendments, with amendments, to the section proposed to be substituted by the Senate in lieu of the first and second sections of the original bill.

Mr. NICHOLSON, from the committee appointed on the second instant, presented a bill to abolish the Board of Commissioners in the city of Washington, and to make provision for the repayment of loans made by the State of Maryland for the use of the city; which was read twice and committed to a Committee of the whole House on Monday next.

Mr. NICHOLSON, from the committee appointed, presented a bill to provide more effectually for the due application of public money, and for the accountability of persons intrusted therewith; which was read twice and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the supplementary report of the Committee on Claims, of the seventh instant, to whom was recommitted, on the fifteenth ultimo, their report on the memorial of Paul Coulon, a French citizen; and after some time spent therein, the committee rose and reported a resolution, which was twice read, and agreed to by the House, as follows:

*Resolved*, That there be paid to Paul Coulon, as agent for the captors of the ship Betty Cathcart and brig Aaron, prizes to the French privateer La Bellone, out of any moneys in the Treasury, not otherwise appropriated, the sum of six thousand two hundred and forty-one dollars and forty-four cents, being the amount retained by the Treasury Department, from the sales of the ship Betty Cathcart, and for duties on the cargo of the brig Aaron.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee on Claims do prepare and bring in the same.

The House proceeded to consider the amendments reported yesterday from the Committee of the Whole to the bill to enable the people of the Eastern division of the Territory north-west of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes, which lay on the table; and the same being severally twice read, were, on the question put thereupon, agreed to by the House.

A motion was then made, further to amend the said bill, at the Clerk's table, by striking out, in the sixth, seventh, eighth, ninth, and tenth lines of the second section thereof, the following words: "and on the north, by an east and west line, drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid, from the mouth of the Great Miami, until it shall intersect Lake Erie or"—and inserting in lieu thereof, the word "to."

It passed in the negative—yeas 27, nays 44, as follows:

YEAS.—James A. Bayard, Thomas Boude, Manasseh Cutler, John Davenport, Thomas T. Davis, John Dennis, Ebenezer Elmer, Abiel Foster, Calvin Goddard, Roger Griswold, William Helms, Joseph Hemphill, Archibald Henderson, William H. Hill, Benjamin Huger, Thomas Lowndes, Lewis R. Morris, James Mott, Thomas Plater, Nathan Read, John Cotton Smith, John Stanley, John Stratton, Samuel Tenney, Thomas Tillinghast, Lemuel Williams, and Henry Woods.

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NAYS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Phaniel Bishop, Richard Brent, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, John Dawson, William Dickson, Lucas Elmendorph, William Eustis, John Fowler, William B. Giles, John A. Hanna, Daniel Heister, William Hoge, James Holland, David Holmes, George Jackson, Charles Johnson, Samuel L. Mitchill, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of Virginia,) Samuel Smith, Richard Stanford, Joseph Stanton, jr., John Taliaferro, jr., Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, and Robert Williams.

Mr. JOHN C. SMITH moved further to amend the bill, by striking out the third section thereof, in the words following, to wit:

*And be it further enacted,* That all male citizens of the United States, who shall have arrived at full age, and resided within the said Territory at least one year previous to the day of election, and shall have paid a territorial or county tax, and all persons having, in other respects, the legal qualifications to vote for Representatives in the General Assembly of the Territory, be, and they are hereby, authorized to choose Representatives to form a Convention, who shall be apportioned amongst the several counties within the Eastern division aforesaid, in a ratio of one Representative to every — inhabitants of each county, according to the enumeration taken under the authority of the United States, as near as may be, that is to say: from the county of Trumbull, — Representatives; from the county of Jefferson, — Representatives, — of the — to be elected within what is now known by the county of Belmont, taken from Jefferson and Washington Counties; from the county of Washington, — Representatives; from the county of Ross, — Representatives, — of the — to be elected in what is now known by Fairfield County, taken from Ross and Washington Counties; from the county of Adams, — Representatives; from the county of Hamilton, — Representatives, — of the — to be elected in what is now known by Clermont County, taken entirely from Hamilton County: and the elections for the Representatives aforesaid, shall take place on the second Tuesday of October next, the time fixed by a law of the Territory, entitled "An act to ascertain the number of free male inhabitants of the age of twenty-one, in the Territory of the United States north-west of the river Ohio, and to regulate the elections of Representatives for the same," for electing Representatives to the General Assembly, and shall be held and conducted in the same manner as is provided by the aforesaid act, except that the qualifications of electors shall be as herein specified.

The motion to strike out was supported by Messrs. JOHN C. SMITH, GODDARD, FEARING, and HENDERSON, and opposed by Messrs. GILES, MITCHILL, R. WILLIAMS, ELMER, and HOLLAND, on the ground that the right of the United States to admit necessarily involved the power of prescribing a convention.

The yeas and nays were taken, and it passed in the negative—yeas 26, nays 48, as follows:

YEAS.—Thomas Boude, Manasseh Cutler, Samuel W. Dana, John Davenport, Abiel Foster, Calvin Goddard, Roger Griswold, Seth Hastings, Joseph Hemphill, Archibald Henderson, Benjamin Huger, Thomas Lowndes, Thomas Morris, Thomas Plater, Nathan Read, William Shepard, John Cotton Smith, John Stratton, Samuel Tenney, Thomas Tillinghast, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, John Archer, John Bacon, Phaniel Bishop, Richard Brent, William Butler, Samuel J. Cabell, Thomas Claiborne, John Clopton, John Condit,

Thomas T. Davis, John Dawson, William Dickson, Lucas Elmendorph, Ebenezer Elmer, John Fowler, William B. Giles, Edwin Gray, John A. Hanna, Daniel Heister, William Helms, William Hoge, James Holland, David Holmes, George Jackson, Charles Johnson, Samuel L. Mitchill, Thomas Moore, James Mott, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of Virginia,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, and Robert Williams.

Mr. FEARING said he was of opinion that some provision ought to be made for the inhabitants excluded from the new State, and the continuance of suits from the old to the new Government; for these purposes he moved the recommitment of the bill. Lost.

Mr. DANA proposed so to amend the fourth section, as that a majority of the whole number of delegates elected in the Convention, instead of a majority of those present, should first determine whether it be or be not expedient to form a constitution, &c.

The yeas and nays were called, and the motion carried—yeas 38, nays 33, as follows:

YEAS.—Thomas Boude, William Brent, John Condit, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas T. Davis, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Abiel Foster, John Fowler, Calvin Goddard, Edwin Gray, Roger Griswold, John A. Hanna, Joseph Hemphill, Archibald Henderson, William Hoge, Benjamin Huger, Lewis R. Morris, Thomas Morris, James Mott, Thomas Plater, Nathan Read, William Shepard, John Cotton Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Stratton, Samuel Tenney, Thomas Tillinghast, John Trigg, George B. Upham, Peleg Wadsworth, and Lemuel Williams.

NAYS.—Willis Alston, John Archer, John Bacon, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, Richard Cutts, John Dawson, William Dickson, William B. Giles, William Helms, James Holland, David Holmes, George Jackson, Charles Johnson, Samuel L. Mitchill, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of Virginia,) Samuel Smith, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, and Robert Williams.

The bill was then ordered to be engrossed for a third reading to-morrow.

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## FRIDAY, April 9.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to amend the Judicial System of the United States;" to which they desire the concurrence of this House.

[The chief alterations made from the old system consist in the holding the Supreme Court only once a year by four justices, and the establishment of six circuits, within each district of which circuit courts are to be holden twice a year, composed of one justice of the Supreme Court and the judge of the district, in which said court is held.]

The bill was read twice, and referred to a select committee.

### *Ohio State Government.*

An engrossed bill to enable the people of the Eastern division of the Territory north-west of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes, was read the third time, and the blanks therein filled up: And, on the question that the same do pass, it was resolved in the affirmative—yeas 47, nays 29, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Phanuel Bishop, Richard Brent, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Thomas T. Davis, John Dawson, William Dickson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, John Fowler, William B. Giles, William Hoge, James Holland, David Holmes, George Jackson, Samuel L. Mitchill, Thomas Moore, James Mott, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of New York,) Josiah Smith, Samuel Smith, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, John P. Van Ness, Isaac Van Horne, and Robert Williams.

NAYS.—Thomas Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Abiel Foster, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, Joseph Hemphill, Archibald Henderson, Benjamin Huger, Thomas Lowndes, Lewis R. Morris, Thomas Morris, Thomas Plater, Nathan Read, William Shepard, John Cotton Smith, John Stanley, John Stratton, Samuel Tenney, Thomas Tillinghast, George B. Upham, Killian K. Van Rensselaer, Lemuel Williams, and Henry Woods.

## MONDAY, April 12.

An engrossed bill for the relief of Theodosius Fowler, was read the third time, and passed.

The House went into Committee of the Whole on the bill for the relief of Paul Coulon, which was reported without amendment, and ordered to be engrossed and read the third time to-day.

Mr. S. SMITH, from the committee appointed, presented a bill for the relief of Lewis Tousard; which was read twice and committed to the Committee of the Whole for to-morrow.

Mr. CLAY, from the committee appointed on the seventh instant, to examine and report on the state of the office of the Clerk of this House, made a report: which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill to provide for the establishment of certain districts, and therein to amend an act, entitled "An act to regulate the collection of duties on imports and tonnage," and for other purposes; and, after some time spent therein, the committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the report of the Secretary of State, of the seventh instant, to whom was referred, on the nineteenth of January last, the memorial of Fulwar Skipwith; and after some time spent therein, the committee rose and reported two resolutions thereupon; which were severally twice read and agreed to by the House, as follows:

*Resolved*, That provision ought to be made by law, for the payment of four thousand five hundred and fifty dollars, unto Fulwar Skipwith, (which sum was advanced by him to the United States,) with an interest of — per centum, from the first of November, one thousand seven hundred and ninety-five.

*Resolved*, That provision ought to be made by law, for compensating the said Fulwar Skipwith, for his services from the first of November, one thousand seven hundred and ninety-six, to the first of May, one thousand seven hundred and ninety-nine, at the rate of — dollars, per annum.

*Ordered*, That a bill or bills be brought in pursuant to the said resolutions; and that Mr. DAWSON, Mr. VAN CORTLANDT, and Mr. STANTON, do prepare and bring in the same.

The House then went into Committee of the Whole on the report of the committee of the twenty-second of January, on the petition of Sarah Fletcher and Jane Ingraham, referred to them on the tenth of December last, and, after some time spent therein, the committee rose and reported several resolutions thereupon; which were severally twice read, and agreed to by the House, as follows:

*Resolved*, That it is expedient to grant to the widows and children, as the case may be, of the officers, seamen, and marines, who were lost at sea, on board the ship Insurgent and brigantine Pickering, lately in the service of the United States, four months' pay of their respective husbands or fathers.

*Resolved*, That it is expedient to provide by law for the payment of five years' half pay to the widows and children, as the case may be, of such officers in the naval service of the United States as shall be slain in battle, or die, when in the actual line of their duty.

*Resolved*, That the widows and children of those officers who were lost at sea in the ship Insurgent and brigantine Pickering, shall be entitled to this provision.

*Ordered*, That a bill or bills be brought in pursuant to the said resolutions; and that Mr. EUSTIS, Mr. GODDARD, and Mr. STANTON, do prepare and bring in the same. [Pg 655]

An engrossed bill for the relief of Paul Coulon was read the third time and passed.

Mr. S. SMITH, from the committee appointed the ninth instant, on the part of this House, jointly, with the committee appointed on the part of the Senate, "to consider and report what business is necessary to be done by Congress in their present session, and when it may be expedient to close the same," made a report thereon; which was read, and ordered to lie on the table.

The House went into Committee of the Whole on the bill for the relief of sick and disabled seamen.

Mr. EUSTIS moved to strike out the first section which forms the moneys devoted to the above object into a general fund, to be applied according to the discretion of the President, instead of suffering it to remain, as heretofore, applied to the particular ports, (or those in the vicinity,) from which the moneys are derived.

This motion was supported by Messrs. EUSTIS, MITCHILL, and DANA, and opposed by Messrs. S. SMITH, MILLEDGE, DAVIS, MACON, and HUGER.

The question was then taken on striking out the first section, and lost; when the committee rose, and reported the bill with amendments.

## MONDAY, April 19.

### *Navy Pensions.*

An engrossed bill for the relief of widows and orphans of certain persons who have died, or may

hereafter die, in the naval service of the United States, was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 34, nays 29.

### ***Compensation of Collectors.***

The House went into Committee of the Whole on the bill to amend the act fixing the compensation of officers employed in the collection of duties on imposts and tonnage.

This bill allows certain compensations to collectors of ports, provided the clear annual receipt does not exceed \$5,000. A motion was made to strike out \$5,000, for the purpose of introducing \$4,000.

It was contended that this latter sum was sufficient compensation to any collector; that it greatly exceeded most of the compensations allowed to the Federal officers; and that as money was appreciating, it became necessary to reduce the salaries of officers generally.

In reply it was observed that very few collectors would receive so large a sum as \$5,000—none other than those of New York, Philadelphia, Baltimore, and perhaps Charleston; that the responsibility attached to these officers was greater than that attached to any other, as in some instances two million of dollars passed through their hands; that the temptation to violate duty was proportionably great; and that, from these considerations, it became the Government to afford them a liberal compensation; and that the sum was considerably below that heretofore allowed.

The question was taken on striking out \$5,000, and lost—yeas 26.

Mr. STANLEY moved to strike out that part of the bill which deducted from the compensations made to the collectors of Newbern and Edenton, the sum of \$250, heretofore allowed beyond their fees.

For this motion he assigned several reasons: among which were the inadequacy of the compensations, viz: about \$1,600 to the duties performed, which were, notwithstanding the small amount of duties, very burdensome, owing to the smallness of the cargoes imported, and theirs being greatly inferior to the compensations allowed to the collectors of Wilmington and Petersburg.

Mr. S. SMITH informed the committee that the principle on which the several compensations had been graduated was, that when the gross emoluments exceed \$2,000, the salary heretofore allowed by law, in addition to the emoluments, should be withdrawn. This was the fact in relation to the ports of Newbern and Edenton; and as the duties in each of these ports did not exceed \$45,000, the compensation seemed adequate; he was, however, far from being tenacious, and would have little objection to a vote of the House which should increase it. Motion lost—yeas 25.

The committee rose, and reported the bill without amendment.

Mr. SOUTHARD renewed the motion to strike out \$5,000, for the purpose of inserting \$4,000, (the same motion made in committee,) and assigned substantially the same reasons above stated.

MESSRS. STANLEY, BACON, and SMILIE, delivered a few observations for, and Mr. HUGER against the motion, which was taken by yeas and nays, on the call of Mr. SOUTHARD, and lost—yeas 31, nays 40.

## **THURSDAY, April 22.**

### ***French Spoliations.***

Mr. GILES, from the committee appointed on the fifth of February last, to whom were referred the memorials and petitions of sundry citizens of the United States, and resident merchants therein, praying relief in the case of depredations committed on their vessels and cargoes, while in pursuit of lawful commerce, by the cruisers of the French Republic, during the late European war, made a report thereon; which was read, and ordered to lie on the table.

## **FRIDAY, April 23.**

### ***Judiciary System.***

The question was then put on the passage of the bill.

Mr. BAYARD called for the yeas and nays, which were taken, and stood—yeas 46, nays 30, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Phaniel Bishop, Walter Bowie, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, John Dawson, William Dickson, Lucas Elmendorph, John Fowler, William B. Giles, Edwin Gray, John A. Hanna, Daniel Heister, William Helms, James Holland, David Holmes, Michael Leib, John Milledge, Anthony New, Joseph H. Nicholson, John Smilie, Israel Smith, John Smith, (of New York,) John Smith, (of Virginia,) Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, John P. Van

Ness, Isaac Van Horne, and Robert Williams.

NAYS.—James A. Bayard, Thomas Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas T. Davis, John Dennis, Ebenezer Elmer, Abiel Foster, Calvin Goddard, Roger Griswold, Seth Hastings, Archibald Henderson, Thomas Lowndes, Lewis R. Morris, Thomas Morris, James Mott, Thomas Plater, Nathan Read, John Stanley, John Stratton, Benjamin Tallmadge, Samuel Tenney, Thomas Tillinghast, George P. Upham, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

**TUESDAY, April 27.**

*Naval Sites.*

**UNAUTHORIZED PURCHASES.**

Mr. MITCHILL, from the committee appointed on so much of the President's Message as relates to naval sites, &c., made a further report. The report concludes as follows:

"The committee find that, prior to the fourth of March, 1801, the sum of one hundred and ninety-nine thousand and thirty dollars, and ninety-two cents, has been expended in purchasing navy yards and making improvements upon them, without any law authorizing the purchase, or any appropriation of money, either for purchase or improvements."

**WEDNESDAY, April 28.**

*Sedition Act.*

**PETITION OF THOMAS COOPER.**

A petition of Thomas Cooper, of the county of Northumberland, in the State of Pennsylvania, was presented to the House and read, setting forth that, in the month of April, eighteen hundred, he was tried and condemned at Philadelphia, before Samuel Chase and Richard Peters, judges of the circuit court of the United States there sitting, for having written and published a libel upon the political character and conduct of John Adams, the then President of the United States; and was thereupon adjudged to pay a fine of four hundred dollars, and to suffer an imprisonment of six months; which punishment he accordingly underwent; that he apprehends the said trial, condemnation, and punishment, were unjust: first, because the law, commonly called the Sedition law, under which he was indicted, was passed in direct opposition to the letter and the spirit of the Constitution of the United States; and secondly, because the said judges did not only take for granted the constitutionality of the said law, but did unjustly and improperly refuse to grant him a *subpœna ad testificandum*, directed to the said John Adams; and therefore praying such redress as the wisdom of Congress shall deign to bestow.

Mr. GRISWOLD moved to reject the prayer of the petition.

Mr. GILES moved to postpone the consideration of the petition till the third Monday in November.

On this motion a debate ensued, in which Mr. GILES and Mr. RANDOLPH supported, and Mr. GRISWOLD and Mr. BAYARD opposed the motion.

The question on postponement was carried, by a large majority.

**SATURDAY, May 1.**

*Disbursement of Public Moneys.*

**UNAUTHORIZED PURCHASE OF NAVY YARDS.**

Mr. GRISWOLD.—Again, the committee say that four navy yards were purchased without authority, and the money misapplied which was paid for them. In my judgment, this is one of the most extraordinary opinions ever pronounced. The facts which gave rise to the purchase of the navy yards were as follows: In the year 1799, Congress authorized by law the building of six 74-gun ships, and one million of dollars was then appropriated for that object, and for building six sloops-of-war. The Secretary of the Treasury found that the committee ought to have understood that ships could not be built either in the air or upon the water, and as he was directed to build the ships, that he must, of course, procure land to place them upon, and that the land must be either purchased or hired. He found that there was not a navy yard within the United States calculated for building ships-of-the-line, and that the expense of preparing yards upon private property would be lost the moment the ship was launched, and of course that this would be bad economy. Experience had likewise taught him, that the better mode would be to purchase the ground, as it would then remain at the control of the Government, so long as it was wanted, and the improvements would be saved. This course was accordingly pursued, and I believe that few gentlemen, except the committee, will conclude that it was not the wisest and best. But whether it was the best course or not, it was certainly authorized by law, because it can never be seriously



doubted, whether a law which directs a thing to be done, does authorize the agents to be employed to do every thing which becomes necessary for accomplishing the object. The laws which have authorized the building of ships have certainly empowered the public agents to purchase timber, copper, cordage, and every other necessary material, and yet no law for those objects has ever named any one of those articles. On the same principle, the law which directed the building of these particular ships, necessarily authorized the public agent to procure the ground to place them upon, although it was not said, whether the ships should be built upon the water or upon the land.

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But there has been one omission in this part of the report, which, on every principle of fairness ought to be connected with it, and for which purpose the report ought to be recommitted: the omission of the letter of Mr. Stoddert, late Secretary of the Navy, explanatory of the purchase made by him of the navy yards, addressed to the committee, in answer to an application made by them upon this subject. This letter contains, in my opinion, a complete justification of that transaction, and was so viewed by the minority of the committee, who urged that it might, at least, be included in the report; but, to our astonishment, the minority refused this justice to the man whom their report had implicated. This opinion of the majority, in respect to the propriety of including Mr. Stoddert's letter, I must believe, will remain a solitary one, for I can scarcely imagine it possible that any other gentleman in this House would have refused, when they presented a charge against this gentleman with one hand, to offer with the other his vindication, written at their own request. If, however, the motion to recommit should prevail, I will then move an instruction to the committee, which will produce Mr. Stoddert's letter.

What renders the report of the committee still more extraordinary, both in respect to erecting the buildings, and also the purchase of navy yards, is, that another subject, resembling these in principle, was before the committee, and on which they refused to report. This was the erecting of the extensive navy stores in this place by the present Administration.

The present Secretary of the Navy was requested to inform the committee when those stores were erected, and from what fund the money had been taken. His answer satisfied the committee that the stores had been erected by the present Administration, and that the money, if I recollect correctly, had been taken from an appropriation for the 74's, navy yards, and docks. The minority of the committee believed, what I trust will be generally believed by those who examine the question, that this was (to say no more of it) at least as doubtful an expenditure as that for the purchase of navy yards, or for erecting the buildings on the Schuylkill. If an authority to build 74's, to complete navy yards and docks, gave an authority to erect stores for the accommodation of the navy, it was thought that an authority to build ships, necessarily included a power to procure the land to place them upon; and that an authority to purchase military stores and to manage the affairs of the army necessarily included a power to furnish, at the public expense, buildings to cover the stores, and for other necessary military purposes, at the discretion of the officers intrusted with those concerns. The minority of the committee, therefore, urged to include this transaction in the report, together with the letter of the Secretary of the Navy, but the request was rejected by the majority. We believed that the cases were precisely similar in principle, and that it was not conducting with impartiality to include the one without the other; and we have thought that when it was discovered that the present Administration was conducting on principles precisely similar to those of their predecessors, it would greatly tend to satisfy all parties that the conduct of the Government had been correct. I feel no hesitation in declaring that, in my judgment, the present Administration were authorized to erect the navy stores, although I believe that the power may be better questioned than it could be in the other cases. These navy stores, I presume, are useful both for receiving the necessary materials for ship building, and securing the stores of the public ships laid up in ordinary; and although not expressly authorized by the words of the law, may very well be considered as a proper appendage to a navy yard, or as buildings rendered necessary in the finishing of the 74's; and as to the extent of the buildings, I am content to leave that point to the Department to which it has been confided. The propriety, however, of including this statement in the report (I trust) will be apparent to the House, and it will not in this place be thought correct to confine our criticisms exclusively to the past Administration. I therefore urge this as a further reason for recommitting the report.

Mr. NICHOLSON had very little inclination, at this time, to enter into an explanation of this subject, which had been so misunderstood by the gentleman just up, on account of indisposition, nor was he very anxiously opposed to the recommitment, but he could perceive not a shadow of reason why the report should be recommitted.

The gentleman had grounded his motion upon the opinion, that all the necessary facts had not been stated. It was, to be sure, a very late period of the session, and the discussion would therefore consume much precious time; but notwithstanding that, if it should appear that any material facts had been suppressed, there would be good ground for recommitting the report. He should therefore think it necessary to test the grounds advanced, to prove the necessity of the recommitment.

As to the navy yards, the committee having been appointed "to report whether moneys drawn from the Treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for;" and knowing that six navy yards had been purchased, very naturally inquired under what authority these purchases had been made, and how they were paid for. They referred to the law authorizing the building of six seventy-fours and six sloops-of-war. The committee submitted an inquiry to the former Secretary of the Navy, (Mr. Stoddert,) directing him to inform the committee as to the purchase. Mr. Stoddert answered

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that a law had passed, appropriating one million of dollars for building the seventy-fours and sloops-of-war, and that fifty thousand dollars were also appropriated for two dock-yards; and also that two hundred thousand dollars were appropriated for the purchase of timber, or land clothed therewith; and that he thought himself authorized to purchase six navy yards, wherein to build the seventy-fours. To these several laws the committee referred for the authority under which the Secretary acted, but they could find no such authority; they could find no other, than authority to purchase two dock-yards, wherein to repair the ships. Now, although not stated in the report, there is very good reason to believe that the fifty thousand dollars never was laid out upon the two dock-yards, but that this sum was cast into the surplus fund. Whether Mr. Stoddert's opinion was correct or not, that it would be more economical to build the seventy-fours in public yards, than in private yards at rent, they were not appointed to inquire; it was their business to say whether he was authorized to act so, let his private opinion be what it might. The committee were clearly of opinion, that he was not authorized to take money appropriated for one purpose and make use of it for another.

As to the reason, why the gentleman wishes the report recommitted; to wit, to insert Mr. Stoddert's answer with the report; it is true a motion for the insertion was made. But the committee thought that letter was addressed to them, and not to the House; that it was to inform their minds, so as to enable them to make the report. They paid due attention to the reasoning of the letter, but it did not convince them that Mr. S. acted authoritatively. Mr. Stoddert's reasoning upon the subject could not form a part of the report; the committee were called upon to form an opinion, and not to substitute that of any individual. They were to inquire whether moneys appropriated were used to the purposes for which they were appropriated. They thought it was not, because it was appropriated to build ships, and to purchase land with timber on it, or timber alone. The question then is, whether six navy yards are six seventy-four gun ships, and whether six sloops-of-war are lands with timber growing on it or not? If Mr. Stoddert's reasoning had been adopted by the committee, it would have become their reasoning, and except it should be theirs, it would have had no business in the report. If a disposition of vindication could have been admitted, Mr. Stoddert might have been permitted to have appeared with counsel before the committee, but facts alone were required, and facts the committee state. Ships had been built for the public before, but the idea never was entertained to build docks for them. No measure different from those taken in the building of the frigates, except by legal authority, ought to have been taken with the seventy-fours.

The case of the navy yard at this place was brought before the committee. It was the request of the minority that the case should be inquired into. The committee sent to request the Secretary of the Navy to say by what authority the storehouse had been erected here, or from what fund it was paid. The answer was, that the storehouse had been erected out of a fund granted in February, eighteen hundred and one, for completing the seventy-fours, the navy yards, and the docks. The ships had been ordered to be laid up in ordinary at this place, and the navy yard purchased. When the present Secretary of the Navy came into office, he found, that as a navy yard was to be completed here, and as sails, rigging, and other naval stores, must be kept here; and finding that one storehouse was already built, and another begun, here, it would be most prudent to complete that storehouse, as a necessary appendage to a navy yard where shipping would be sent for repairs. To this none of the gentlemen objected, but rather approved; and this is surely a purpose to which the money was appropriated. Whether the other applications are or not, is for the House to decide. The committee have stated the facts.

The gentleman says the accountant of the War Department was satisfied with the accounts of General Wilkins. I did not understand the fact so—vouchers were sent on, but they were not satisfactory.

Mr. BAYARD.—I shall beg the indulgence only of a few words, upon one or two heads, respecting which, the opinion I entertain is decidedly opposed to that expressed by a majority of the committee. I cannot well conceive of a plainer mistake, than what appears in the opinion, pronounced on the purchase of six navy yards, made by the late Secretary of the Navy. The committee, I think, ought to be allowed an opportunity of reviewing that opinion. Four of those six yards are considered as purchased without authority, and the money paid for them misapplied.

By the act of the Legislature, of February, 1799, the Secretary of the Navy was directed to cause to be built six ships, each to carry not less than seventy-four guns; and six sloops-of-war of eighteen guns. For this purpose, a million of dollars was appropriated; two hundred thousand were appropriated to the purchase of land, bearing timber suitable for the navy, and fifty thousand dollars for the making of two docks. These laws, passed on successive days, indicated the design of a permanent Navy Establishment. It was perfectly understood that the ships of the line were not directed to be built for the occasional defence of the country at that period, but were intended as the commencement of a lasting system of defence, which was expected to increase with the growth of the commerce and resources of the country. It was far from our expectation that the Navy of the United States was to be limited to six ships of the line, or to any number within the convenient means of the country, short of a force adequate to render our flag respectable and our navigation secure. It was not supposed that the seventy-fours would be launched for several years, but we had hopes when they left the stocks, a flourishing commerce would enable us to lay the keels of new ships in their places. Under this view were the two hundred thousand dollars appropriated, to the purchase of land producing timber fit for a navy. With this knowledge, so plainly derivable from the policy pursued by the Legislature, what was the Secretary of the Navy to do? It was made his duty to build six seventy-fours and six sloops-of-

war. It is surely not expected that they were to be built on the water or in the air, and of consequence it will be allowed that he had authority to provide yards, for the purpose of constructing them. The public had no yards, and it was therefore necessary to obtain ground from individuals. As there were no persons disposed to make charitable grants, it remained only for the United States to purchase ground in fee simple, or for a term of years, paying a gross sum or an annual rent. The act of Congress, directing the ships to be built, appropriated not a dollar either for the renting or for the purchase of land. But a million of dollars were appropriated to the building of the ships, which was directed to be done, but which could not be done without an expenditure for land. Can there be a plainer proposition, than that an appropriation for a certain service, embraces every article without which the service cannot be performed? In the present instance, the service imposed upon the Secretary, could not be performed without obtaining navy yards at the public expense. It therefore rested in his discretion, for the faithful exercise of which he was accountable to the Government, either to purchase or rent the ground, necessary for the yards. It was his duty to conform to the views of the Legislature, and to make such an arrangement as would be most advantageous to the public. If it answered the object, and was most for the interest of the Government to rent, then surely he ought to have rented it; but if it comported more with their views, or was more to their benefit to purchase, it was then his duty to purchase.

This inquiry, however, was never made by the committee. They never asked the question whether it was cheaper to buy or to rent, and they have condemned the Secretary for buying and not renting, when he had no more authority to rent than to buy, and when by buying he has probably saved to the United States several hundred thousand dollars. The situation of this officer is peculiarly hard. Having been directed to build a number of ships for the public service, he has purchased navy yards for the purpose, and in consequence has subjected himself to the accusation of expending public money without authority. If he had rented land for the purpose, he would have been equally liable to the same reproach; and if he had neglected to do either, he would have been exposed to an impeachment. The Secretary has it fully in his power to show, that his purchases will save a large sum of money to the United States. A navy yard, for a seventy-four, cannot be prepared without great expense. Under this head, I am informed by the Secretary, that one hundred thousand dollars were expended on one frigate, the *Constellation*. This was occasioned in a great degree by leasing the yard. At the expiration of the lease, the public lose the benefit of all their expense in preparing and improving the ground.

In addition to the inference which the Secretary might fairly make, of an authority to purchase ground for the navy yards, if a purchase could be made on cheaper terms than a contract of lease, he had further to consider the intention, plainly manifested by the Legislature, of establishing a system which would require the use of these navy yards at a future time, beyond the duration of any common lease. Nay, he knew not what time was to be consumed in building the ships directed, and of course could not know for what term a contract could be made. At present, if the Government should be disposed to sell the ships on the stocks, they have the power to sell the navy yards, and they will have the same power when the ships are launched; and they may thus convert in effect the permanent purchase into a term for years, and restore to the Treasury the money which has been expended. But, sir, what I consider as the hardest act on the part of the majority of the committee, was their refusal to suffer the answer of the Secretary to the letter we addressed to him, explaining the grounds of his conduct, to accompany the documents annexed to the report. We have been told by the gentleman from Maryland (Mr. NICHOLSON) that it was not the business of the committee to report the opinions of the Secretary, or of any other individual. If this be correct, I believe it was as little the business of the committee to report their own opinions. They should have confined themselves to the statement of facts, and upon those facts have left the House and the nation at large to form their own opinions.

If this course had been pursued, there would have been little occasion to publish the reasoning of Mr. Stoddert; but, as the opinion of the committee is merely their inference from certain premises, it was due to the public, as well as to the Secretary, that the grounds should be explained which had led him to a different conclusion from that adopted by the committee. This report seems, at present, intended only for public information; certainly I must believe to give correct information. The letter of Mr. Stoddert throws great light upon a part of it, and when our object is only to inform the people on a subject, why should we refuse any light which places it more clearly before their eyes?

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**MONDAY, 5 o'clock P. M., May 3.**

***Adjournment.***

On motion, *Ordered*, That Mr. GRISWOLD and Mr. SAMUEL SMITH be appointed a committee, on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed recess of Congress.

A message from the Senate informed the House that the Senate have appointed a committee on their part, jointly, with the committee appointed on the part of this House, to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed recess of Congress.

Mr. GRISWOLD, from the committee appointed on the part of this House, jointly, with the committee appointed on the part of the Senate, to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed recess of Congress, reported that the committee had performed that service; and

that the PRESIDENT signified to them he had no farther communication to make during the present Session.

*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 December next; and that the Clerk of this House do go with the said message.

A message from the Senate informed the House that the Senate, having completed the Legislative business before them, are now ready to adjourn. Whereupon,

The SPEAKER adjourned the House until the first Monday in December next.

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## SEVENTH CONGRESS.—SECOND SESSION.

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BEGUN AT THE CITY OF WASHINGTON, DECEMBER 6, 1802.

PROCEEDINGS IN THE SENATE.

MONDAY, December 6, 1802.

In pursuance of the law of last session, the second session of the seventh Congress commenced this day, at the city of Washington, and the Senate assembled, in their Chamber, at the Capitol.

PRESENT:

SIMEON OLCOTT, from New Hampshire.

URIAH TRACY, from Connecticut.

CHRISTOPHER ELLERY, from Rhode Island.

STEPHEN R. BRADLEY, from Vermont.

SAMUEL WHITE, from Delaware.

ROBERT WRIGHT, from Maryland.

ABRAHAM BALDWIN, from Georgia.

WILLIAM PLUMER, appointed a Senator by the State of New Hampshire, to supply the vacancy occasioned by the resignation of JAMES SHEAFE, produced his credentials, and took his seat in the Senate.

The number of members assembled not being sufficient to form a quorum, the Senate adjourned.

TUESDAY, December 7.

Mr. BRECKENRIDGE, from Kentucky; Mr. FOSTER, from Rhode Island; Mr. HOWARD, from Maryland; and Mr. LOGAN, from Pennsylvania, severally attended.

There being no quorum, the Senate adjourned.

WEDNESDAY, December 8.

The number of members assembled not being sufficient to constitute a quorum, the Senate adjourned.

THURSDAY, December 9.

The number of members assembled not being sufficient to constitute a quorum, the Senate adjourned.

FRIDAY, December 10.

Mr. S. T. MASON, from Virginia, attended.

The number of members assembled not being sufficient to constitute a quorum, the Senate adjourned.

SATURDAY, December 11.

Mr. FRANKLIN, from North Carolina, attended.

The number of members assembled not being sufficient to constitute a quorum, the Senate adjourned.

MONDAY, December 13.

Mr. J. MASON, from Massachusetts; Mr. DAYTON, and Mr. OGDEN, from New Jersey; and Mr. SUMTER,

from South Carolina, severally attended.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President, *pro tempore*, as the constitution provides, and the ballots being collected and counted, the whole number was found to be 17, of which 9 make a majority.

Mr. Bradley had 7, Mr. Tracy had 7, Mr. Baldwin 1, Mr. Dayton 1, Mr. Logan 1.

There was consequently no choice. Whereupon, the Senate proceeded to the election of a President, *pro tempore*, as the constitution provides, and the ballots being collected and counted, the whole number was found to be 17, of which 9 make a majority.

Mr. Bradley had 8, Mr. Tracy 7, Mr. Dayton 1, Mr. Logan 1.

There was consequently no choice. Whereupon the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and the ballots being counted, the whole number was found to be 17, of which 9 make a majority.

Mr. Bradley had 8, Mr. Tracy 7, Mr. Dayton 1, Mr. Logan 1.

There was consequently no choice. Whereupon, the Senate proceeded to the election of a President, *pro tempore*, as the constitution provides, and the ballots being counted, the whole number of votes was 14, of which 8 make a majority.

Mr. Tracy had 7, Mr. Bradley 5, Mr. Dayton 1, Mr. Logan 1.

There was consequently no choice; and the Senate adjourned.

## **TUESDAY, December 14.**

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The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President, *pro tempore*, as the constitution provides, and the ballots being collected and counted, the whole number was found to be 17, of which 9 make a majority.

Mr. Bradley had 9, Mr. Tracy 7, Mr. Dayton 1.

Consequently, STEPHEN R. BRADLEY was elected President of the Senate, *pro tempore*.

The credentials of Mr. PLUMER, appointed a Senator by the State of New Hampshire, to supply a vacancy occasioned by the resignation of JAMES SHEAFE, Esq., were read; and the oath prescribed by law was administered to him by the President.

*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 STEPHEN R. BRADLEY, President of the Senate, *pro tempore*.

A similar notice was directed to be given to the House of Representatives, and also that the Senate are ready to proceed to business.

On motion, it was agreed to proceed to the choice of a Chaplain on the part of the Senate, and the ballots having been collected and counted, the whole number was 17, of which 9 is the majority.

Doctor Gantt had 10, Mr. M'Cormick 4, Mr. Priestley 2, Mr. Balch 1.

So it was *Resolved*, That the Rev. Dr. GANTT be the Chaplain to Congress, on the part of the Senate, during the present session.

## **WEDNESDAY, December 15.**

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

When we assemble together, fellow-citizens, to consider the state of our beloved country, our just attentions are first drawn to those pleasing circumstances which mark the goodness of that Being from whose favor they flow, and the large measure of thankfulness we owe for his bounty. Another year has come around, and finds us still blessed with peace and friendship abroad; law, order, and religion, at home; good affection and harmony with our Indian neighbors; our burdens lightened, yet our income sufficient for the public wants, and the produce of the year great beyond example. These, fellow-citizens, are the circumstances under which we meet: and we remark, with special satisfaction, those which, under the smiles of Providence, result from the skill, industry, and order of our citizens, managing their own affairs in their own way, and for their own use, unembarrassed by too much regulation, unoppressed by fiscal exactions.

On the restoration of peace in Europe, that portion of the general carrying trade which had fallen to our share during the war, was abridged by the returning competition of the belligerent powers. This was to be expected, and was just. But, in addition, we find in some parts of Europe monopolizing discriminations, which, in the form of duties, tend effectually to prohibit the carrying thither our own produce in our own vessels. From existing amities, and a spirit of justice, it is hoped that friendly discussion will produce a fair and adequate reciprocity. But should false calculations of interest defeat our hope, it rests with the Legislature to decide whether they will meet inequalities abroad with countervailing

inequalities at home, or provide for the evil in any other way.

It is with satisfaction I lay before you an act of the British Parliament anticipating this subject so far as to authorize a mutual abolition of the duties and countervailing duties, permitted under the treaty of 1794. It shows, on their part, a spirit of justice and friendly accommodation, which it is our duty and our interest to cultivate with all nations. Whether this would produce a due equality in the navigation between the two countries is a subject for your consideration.

Another circumstance which claims attention, as directly affecting the very source of our navigation, is the defect or the evasion of the law providing for the return of seamen, and particularly of those belonging to vessels sold abroad. Numbers of them, discharged in foreign ports, have been thrown on the hands of our Consuls, who, to rescue them from the dangers into which their distresses might plunge them, and save them to their country, have found it necessary, in some cases, to return them at the public charge.

The cession of the Spanish province of Louisiana to France, which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations of the Legislature connected with that subject.

There was reason, not long since, to apprehend that the warfare in which we were engaged with Tripoli might be taken up by some other of the Barbary Powers. A reinforcement, therefore, was immediately ordered to the vessels already there. Subsequent information, however, has removed these apprehensions for the present. To secure our commerce in that sea with the smallest force competent, we have supposed it best to watch strictly the harbor of Tripoli. Still, however, the shallowness of their coast, and the want of smaller vessels on our part, has permitted some cruisers to escape unobserved; and to one of these an American vessel unfortunately fell a prey. The captain, one American seaman, and two others of color, remain prisoners with them; unless exchanged under an agreement formerly made with the Bashaw, to whom, on the faith of that, some of his captive subjects had been restored.

The convention with the State of Georgia has been ratified by their Legislature, and a repurchase from the Creeks has been consequently made of a part of the Tallassee country. In this purchase has been also comprehended a part of the lands within the fork of Oconee and Ocmulgee Rivers. The particulars of the contract will be laid before Congress so soon as they shall be in a state for communication.

In order to remove every ground of difference possible with our Indian neighbors, I have proceeded in the work of settling with them and marking the boundaries between us. That with the Choctaw nation is fixed in one part, and will be through the whole within a short time. The country to which their title had been extinguished before the Revolution is sufficient to receive a very respectable population, which Congress will probably see the expediency of encouraging so soon as the limits shall be declared. We are to view this position as an outpost of the United States, surrounded by strong neighbors, and distant from its support. And how far that monopoly which prevents population should here be guarded against, and actual habitation made a condition of the continuance of title, will be for your consideration. A prompt settlement, too, of all existing rights and claims within this Territory presents itself as a preliminary operation.

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In that part of the Indiana Territory which includes Vincennes, the lines settled with the neighboring tribes fix the extinction of their title at a breadth of twenty-four leagues from east to west, and about the same length, parallel with and including the Wabash. They have also ceded a tract of four miles square, including the salt springs, near the mouth of that river.

In the department of finance it is with pleasure I inform you that the receipts of external duties for the last twelve months have exceeded those of any former year, and that the ratio of increase has been also greater than usual. This has enabled us to answer all the regular exigencies of Government, to pay from the Treasury within one year upwards of eight millions of dollars, principal and interest, of the public debt, exclusive of upwards of one million paid by the sale of bank stock, and making in the whole a reduction of nearly five millions and a half of principal, and to have now in the Treasury four millions and a half of dollars, which are in a course of application to the further discharge of debt and current demands. Experience, too, so far, authorizes us to believe, if no extraordinary event supervenes, and the expenses which will be actually incurred shall not be greater than were contemplated by Congress at their last session, that we shall not be disappointed in the expectations then formed. But, nevertheless, as the effect of peace on the amount of duties is not yet fully ascertained, it is the more necessary to practise every useful economy, and to incur no expense which may be avoided without prejudice.

No change being deemed necessary in our Military Establishment, an estimate of its expenses for the ensuing year, on its present footing, as also of the sums to be

employed in fortifications, and other objects within that department, has been prepared by the Secretary of War, and will make a part of the general estimates which will be presented to you.

Considering that our regular troops are employed for local purposes, and that the militia is our general reliance for great and sudden emergencies, you will doubtless think this institution worthy of a review, and give it those improvements of which you find it susceptible.

Estimates for the Naval Department, prepared by the Secretary of the Navy, for another year, will, in like manner, be communicated with the general estimates. A small force in the Mediterranean will still be necessary to restrain the Tripoline cruisers; and the uncertain tenure of peace with some other of the Barbary Powers may eventually require that force to be augmented. The necessity of procuring some smaller vessels for that service will raise the estimate; but the difference in their maintenance will soon make it a measure of economy.

Presuming it will be deemed expedient to expend annually a convenient sum towards providing the Naval defence which our situation may require, I cannot but recommend that the first appropriations for that purpose may go to the saving what we already possess. No cares, no attentions, can preserve vessels from rapid decay, which lie in water and exposed to the sun. These decays require great and constant repairs, and will consume, if continued, a great portion of the moneys destined to Naval purposes. To avoid this waste of our resources, it is proposed to add to our navy yard here a dock, within which our present vessels may be laid up dry, and under cover from the sun. Under these circumstances, experience proves that works of wood will remain scarcely at all affected by time. The great abundance of running water which this situation possesses, at heights far above the level of the tide, if employed as is practised for lock navigation, furnishes the means for raising and laying up our vessels on a dry and sheltered bed. And should the measure be found useful here, similar depositories for laying up, as well as for building and repairing vessels, may hereafter be undertaken at other navy yards offering the same means. The plans and estimates of the work, prepared by a person of skill and experience, will be presented to you without delay; and from this it will be seen that scarcely more than has been the cost of one vessel is necessary to save the whole, and that the annual sum to be employed towards its completion may be adapted to the views of the Legislature as to Naval expenditure.

To cultivate peace, and maintain commerce and navigation in all their lawful enterprises; to foster our fisheries as nurseries of navigation and for the nurture of man, and protect the manufactures adapted to our circumstances; to preserve the faith of the nation by an exact discharge of its debts and contracts, expend the public money with the same care and economy we would practise with our own, and impose on our citizens no unnecessary burdens; to keep, in all things, within the pale of our constitutional powers, and cherish the Federal Union as the only rock of safety; these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these the rule of our action, we shall endear to our countrymen the true principles of their constitution, and promote a union of sentiment and of action, equally auspicious to their happiness and safety. On my part you may count on a cordial concurrence in every measure for the public good; and on all the information I possess which may enable you to discharge to advantage the high functions with which you are invested by your country.

TH. JEFFERSON.

DECEMBER 15, 1802.

The Message and papers therein referred to were read; and

*Ordered*, That five hundred copies of the Message of the PRESIDENT OF THE UNITED STATES, together with one hundred copies of each of the papers referred to in the Message, be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have elected the Reverend WILLIAM PARKINSON a Chaplain to Congress, on their part.

### **WEDNESDAY, December 22.**

DWIGHT FOSTER, from the State of Massachusetts, attended.

### **THURSDAY, December 23.**

Mr. MORRIS, from the State of New York, attended.

### **MONDAY, December 27.**

Mr. HILLHOUSE, from the State of Connecticut, attended.

## THURSDAY, December 30.

Mr. ANDERSON, and Mr. COCKE, from the State of Tennessee, severally attended.

## MONDAY, January 3, 1803.

Mr. NICHOLAS, from the State of Virginia, and Mr. WELLS, from the State of Delaware, attended.

## FRIDAY, January 7.

Mr. STONE, from North Carolina, attended.

The PRESIDENT communicated a letter signed T. Worthington, agent for the State of Ohio, enclosing a copy of the constitution of the said State, and requesting it might be laid before the Senate; and they were read, and ordered to lie for consideration.

The Senate resumed the consideration of the motion made on the 5th instant for extending the laws of the United States to the State of Ohio, together with the amendment proposed thereon; which amendment was withdrawn; and it was agreed to adopt the motion, amended as follows:

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what Legislative measures may be necessary for admitting the State of Ohio into the Union, or for extending to that State the laws of the United States; and

*Ordered*, That MESSRS. BRECKENRIDGE, MORRIS, and ANDERSON, be the committee, and that the letter signed T. Worthington, agent for the State of Ohio, laid before the Senate this morning, together with a copy of the constitution of said State, be referred to the same committee, to consider and report thereon.

The bill to carry into effect the several resolutions of Congress for erecting monuments to the memories of the late Generals Wooster, Herkimer, Davidson, and Scriven, was read the third time.

On motion to postpone the further consideration of this bill until the first Monday in December next, it passed in the negative—yeas 9, nays 17, as follows:

YEAS.—MESSRS. Anderson, Baldwin, Bradley, Breckenridge, Cocke, Ellery, Nicholas, Sumter, and Wright.

NAYS.—Messrs. Clinton, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Howard, Jackson, Logan, J. Mason, Morris, Olcott, Plumer, Stone, Tracy, Wells, and White.

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 18, nays 8, as follows:

YEAS.—MESSRS. Baldwin, Clinton, Dayton, T. Foster, D. Foster, Franklin, Hillhouse, Howard, Jackson, Logan, J. Mason, Morris, Olcott, Plumer, Stone, Tracy, Wells, and White.

NAYS.—Messrs. Anderson, Bradley, Breckenridge, Cocke, Ellery, Nicholas, Sumter, and Wright.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to carry into effect the several resolutions of Congress for erecting monuments to the memories of the late Generals Wooster, Herkimer, Davidson, and Scriven."

## TUESDAY, January 11.

In Executive session, the following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

The cession of the Spanish province of Louisiana to France, and perhaps of the Floridas, and the late suspension of our right of deposit at New Orleans, are events of primary interest to the United States. On both occasions, such measures were promptly taken as were thought most likely amicably to remove the present and to prevent future causes of inquietude. The objects of these measures were to obtain the territory on the left bank of the Mississippi, and eastward of that, if practicable, on conditions to which the proper authorities of our country would agree; or, at least, to prevent any changes which might lessen the secure exercise of our rights. While my confidence in our Minister Plenipotentiary at Paris is entire and undiminished, I still think that these objects might be promoted by joining with him a person sent from hence directly, carrying with him the feelings and sentiments of the nation, excited on the late occurrence, impressed by full communications of all the views we entertain on this interesting subject; and thus prepared to meet and to improve, to a useful result, the counter-propositions of the other contracting party, whatsoever form their interests may give to them, and to secure to us the ultimate accomplishment of our object.

I therefore nominate Robert R. Livingston to be Minister Plenipotentiary, and James Monroe to be Minister Extraordinary and Plenipotentiary, with full powers to both, jointly, or to either, on the death of the other, to enter into a treaty or



convention with the First Consul of France, for the purpose of enlarging, and more effectually securing, our rights and interests in the river Mississippi, and in the territories eastward thereof.

But as the possession of these provinces is still in Spain, and the course of events may retard or prevent the cession to France being carried into effect, to secure our object, it will be expedient to address equal powers to the Government of Spain also, to be used only in the event of its being necessary.

I therefore nominate Charles Pinckney to be Minister Plenipotentiary, and James Monroe, of Virginia, to be Minister Extraordinary and Plenipotentiary, with full powers to both, jointly, or to either, on the death of the other, to enter into a treaty or convention with His Catholic Majesty, for the purpose of enlarging, and more effectually securing, our rights and interests in the river Mississippi, and in the territories eastward thereof.

JAN. 11, 1803.

TH. JEFFERSON.

The Messages and papers therein referred to were read, and ordered that they severally lie for consideration. [Pg 665]

### **MONDAY, January 17.**

Mr. BROWN, from the State of Kentucky, attended.

### **WEDNESDAY, January 19.**

AARON BURR, Vice President of the United States, and President of the Senate, attended.

### **THURSDAY, January 20.**

The VICE PRESIDENT laid before the Senate a certificate of the election of SAMUEL M'CLAY, Esq. of Northumberland county, and State of Pennsylvania, to be a Senator of the United States from the fourth day of March next, inclusive; and it was read and ordered to lie on file.

### **MONDAY, January 24.**

The VICE PRESIDENT communicated a letter from the Clerk of the House of Representatives of the State of Delaware, enclosing the credentials of SAMUEL WHITE, Esq., elected a Senator of the United States for the term of six years, commencing on the 4th day of March next; and they were read.

*Ordered,* That they lie on file.

### **WEDNESDAY, January 26.**

JAMES ROSS, from Pennsylvania, attended.

### **THURSDAY, January 27.**

Mr. Ross presented the several representations and memorials of Richard Basset, Egbert Benson, Benjamin Bourne, William Griffith, Samuel Hitchcock, B. P. Key, C. Magill, Jeremiah Smith, G. K. Taylor, William Tilghman, and Oliver Wolcott, judges of the circuit courts under the late act, entitled "An act to provide for the more convenient organization of the Courts of the United States;" stating that, since the repeal of the said act, no law had been made for assigning to them the execution of any Judicial functions, nor has any provision been made for the payment of their stipulated compensations; and most respectfully requesting Congress to review the existing laws with respect to the officers in question; and the memorials were read.

*Ordered,* That they be referred to MESSRS. MORRIS, ROSS, and DAYTON, to consider and report thereon, and that the memorials be printed for the use of the Senate. The memorial is as follows

*To the Honorable the Senate and House of Representatives in Congress assembled:*

The undersigned most respectfully submit the following resolution and memorial.

By an act of Congress passed on the thirteenth day of February, in the year of our Lord one thousand eight hundred and one, entitled "An act to provide for the more convenient organization of the courts of the United States," certain judicial offices were created, and courts established, called circuit courts of the United States.

In virtue of appointments made under the Constitution of the United States, the undersigned became vested with the offices so created, and received commissions authorizing them to hold the same, with the emoluments thereunto appertaining, during their good behavior.

During the last session an act of Congress passed, by which the above-mentioned

law was declared to be repealed; since which no law has been made for assigning to your memorialists the execution of any judicial functions, nor has any provision been made for the payment of their stipulated compensations.

Under these circumstances, and finding it expressly declared in the Constitution of the United States, that "The judges both of the supreme and inferior courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office," the undersigned, after the most deliberate consideration, are compelled to represent it as their opinion, that the rights secured to them by the constitution, as members of the Judicial Department, have been impaired.

With this sincere conviction, and influenced by a sense of public duty, they most respectfully request of Congress to review the existing laws which respect the offices in question, and to define the duties to be performed by the undersigned, by such provisions as shall be consistent with the constitution, and the convenient administration of justice.

The right of the undersigned to their compensations, they sincerely believe to be secured by the constitution, notwithstanding any modification of the Judicial Department, which, in the opinion of Congress, public convenience may recommend. This right, however, involving a personal interest, will be cheerfully submitted to judicial examination and decision, in such manner as the wisdom and impartiality of Congress may prescribe.

That judges should not be deprived of their offices or compensations without misbehavior appears to the undersigned to be among the first and best established principles of the American constitutions; and in the various reforms they have undergone, it has been preserved and guarded with increased solicitude.

On this basis the Constitution of the United States has laid the foundation of the Judicial Department, and expressed its meaning in terms equally plain and peremptory.

This being the deliberate and solemn opinion of the undersigned, the duty of their stations requires that they should declare it to the Legislative body. They regret the necessity which compels them to make the representation, and they confide that it will be attributed to a conviction that they ought not voluntarily to surrender rights and authorities intrusted to their protection, not for their personal advantage, but for the benefit of the community.

**THURSDAY, February 3.**

***Memorial of Judges.***

Agreeably to the order of the day, the Senate took into consideration the report of the committee on the several memorials of the judges, under the late act to provide for the more convenient organization of the courts of the United States. The committee report as follows:

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That the petitioners were judges of certain courts, inferior to the Supreme Court, constituted by an act of the 13th of February, 1801, and duly commissioned to hold their offices during good behavior.

That, while holding and exercising their offices, an act was passed on the 8th of March last, to repeal the said act of the 13th of February, 1801, and transfer the duties of the said judges from them to others.

That a question has arisen whether, by reason of the premises, the said petitioners be deprived of their offices.

That this question, depending on the construction of the laws and Constitution of the United States, is not properly cognizable by the Senate.

The committee, therefore, conceive it improper either to give reasons or express opinions; but they consider it as a question of high and serious import, and believe that a speedy investigation and final decision is of great moment to the commonwealth.

Wherefore, they submit the following resolution.

*Resolved*, That the President of the United States be requested to cause an information, in the nature of a *quo warranto*, to be filed by the Attorney General against Richard Basset, one of the said petitioners, for the purpose of deciding judicially on their claims.

Mr. MORRIS said, I rise, Mr. PRESIDENT, as chairman of the committee whose report you have just had the goodness to read, for the purpose of explaining their reasons. If this were a common or an ordinary occasion, if no heats had been excited, if there were no unpleasant, no tormenting recollections, a measure so plain, so easy, so simple, would require neither argument nor persuasion. It would be adopted for its own interior evidence, and from the general sense of propriety. Unhappily, sir, this is not the case. Serious differences of opinion have existed, and still exist on the subject with which it is connected. From these have arisen disputes, divisions,

bickerings. There is not, I fear, in the minds of men, that calm impartiality which is needful to fair investigation. There remains much of prejudice, of irritability.

Your committee have pursued the course which appeared to be proper, not only in itself, but according to the existent circumstances. Gentlemen will easily see that they might have made an elaborate report, containing a long detail of reasons to establish a favorite conclusion; and a slight knowledge of the forms of business will show, that they might have placed that report at length on your journals. But would this have been right? Would it have tended to conciliate? Would it have been a proper return for the unanimity with which your committee was chosen? Surely it would not; and is it not the duty of every good citizen to heal, as far as possible, the wounds of society? To calm those irritations which disturb its repose? To remove all things which may alarm, torment, or exacerbate?

Mr. President, your committee have no intention, no wish to revive a discussion of points already settled. While the act of last session was in agitation, we opposed it steadily, pertinaciously. But that act has become a law, and to the authority of the law we bow submissively. While in suspense, we thought it our duty, as Senators, to oppose it. But since it has been adopted, according to the forms of the constitution, we know that as citizens we are bound to obey. With these deep impressions, then, of what is due to the supreme law of our land, I shall proceed to the report of your committee, and endeavor to explain its several parts.

Gentlemen will perceive that the question which the memorialists have submitted to our investigation is, whether the law of last session has deprived them of their office of judge. Your committee consider this question as not being cognizable by the Senate. It is not for the Senate, nor the Representatives, nor both combined, to interpret their own acts. We are a part of the Legislature. A part of the Executive power is also delegated to us. If the Judiciary be added, it will constitute a tyranny. It is, indeed, the very definition of tyranny which has been given by those best acquainted with the subject. This Senate can have no wish to arrogate power. It is too just, too wise. If a sense of propriety did not prevent, prudence alone would forbid the attempt. This body is too feeble for the exercise of so much authority. Its form, its constitution, the mode and manner of its creation and existence, the strength and structure of its members, render it incapable of sustaining a greater weight of power.

Your committee, sir, have ventured to express their belief, that the question should be speedily settled. I learned in early youth, from the volumes of professional science, that it is expedient for the Commonwealth that a speedy end should be put to litigation; and if it be important that litigation should cease between man and man, how much more important that a litigated point of public right, which interests and agitates the whole community, should be laid at rest? And if this be important in the general course of things, is it not, under present circumstances, indispensable? And how is it to be effected? By an exertion of Legislative might; by force. Remember, force will excite resistance. Such is the nature of the human heart. Free citizens revolt with disdain at the exercise of force. But judgment commands their prompt, their willing obedience. When the law is known, when it is declared by the proper tribunals, all will bow to its authority. You, then, may expect a full, and quiet, and general submission. But while it is litigated and uncertain what the law is, differences will exist, and discord will prevail.

It is under these impressions, sir, that your committee have presumed to offer the resolutions on your table; and as some of the technical terms may not be familiar to every gentleman, it may be proper to state the kind of proceeding which is recommended.

The attorney general, or, as he is denominated in French idiom, the public accuser, will institute, before the proper tribunal, an inquiry by what authority these men claim to hold and exercise the office of judge. It will then be incumbent upon them, either to disclaim the office, and then there is an end of the question; or else (claiming it) to establish their right. And to do this, they must prove two things; first, that the office exists, and secondly, that of right it belongs to them. Failing of either, their claim is gone.

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Now, sir, it may be well to consider the decisions which may be made, and their probable effect. I take it for granted, that these gentlemen, who have asked a Judicial decision, will not disclaim, and that whatever judgment may be given in the first instance, the cause will be brought up to the Supreme Court. If the judgment, in the last resort, should be (as it probably would be) against the claim, all complaint will be quieted, and all opposition will cease. Some then, indeed, might triumph. For my own part, I should find in it great consolation—the consolation of knowing that, however wrong may have been my own opinions, the Supreme Legislature of my country have done right. The pride of opinion might, indeed, be wounded; but God forbid, that from motives of pride, or from any other motive, I should hear, without deep concern, that the Legislature of my country have violated that sacred charter from which they derive their authority!

But suppose an opinion different, contrariant, or the very reverse (for that also is possible.) Will the judges rudely declare that you have violated the constitution, unmindful of your duty, and regardless of your oath? No. With that decency which becomes the Judicial character; that decency which upholds national dignity and impresses obedience on the public will; that decency, the handmaid of the graces, which more adorns a magistrate than ermine, aye, than royal robes; with that decency which so peculiarly befits their state and condition, they will declare what the Legislature meant. They will never presume to believe, much less to declare, that you meant to violate the constitution. There will be no dangerous and hateful clashing of public authorities. They will never question the exercise of that high discretion with which you are invested. They will not deny your full supremacy. They will not examine into your motives, nor assign improper views. They will respect you so long as they preserve a due respect for themselves. They will

declare, that in assigning duties to one officer, and taking them from another, you have to consult only your own convictions of what the interest or convenience or the people may require. They will modestly conclude, that you did not mean to abolish the offices which the constitution had forbidden you to abolish; and, therefore, finding that it was not your intention to abolish, they will declare that the offices still exist. Such, sir, would be the language of your supreme Judiciary, from the high sense they entertain of their duty. And, if it were decent to suggest in this Senate, that they were lost to a sense of duty, can it be believed, that a few feeble judges will dare oppose themselves to the power of the Legislature?

The VICE PRESIDENT rose, and said he must call the attention of the Senate to the point in discussion, which was, whether the Senate would request the President to cause a process to be instituted for the purpose of ascertaining whether the petitioners still hold the office of judge. On this question, it could not be in order to go back to a law passed at the last session, and to discuss the merits of that law.

Mr. JACKSON said, it appeared by the memorial that the petitioners considered themselves as being still judges, notwithstanding the law of last session. He thought, therefore, it could not be out of order to show that that act deprived them of their offices.

Mr. WRIGHT premised, that he would endeavor to confine his remarks to the point before the Senate. He felt no disposition to travel again over the ground which had been traversed at the last session.

The petition was addressed to both Houses, and prayed for two things; first, that Congress, in their Legislative capacity, would assign to the petitioners some Judicial duties; and secondly, that they would authorize a Judicial investigation of their claim to compensation. The committee, therefore, ought to have confined their inquiries to these points, and to have reported accordingly. Instead of that, they had reported a resolution, which, if adopted, would be neither a grant nor a denial of the prayer of the petition. In doing this, the committee had exceeded their powers, and proposed a measure which the Senate itself was not authorized to adopt.

Mr. W. took a review of the constitutional powers of the Senate, in its Legislative and Executive capacities, and inquired, Have we any constitutional authority to make such a request of the President? In what part of the constitution is such power delegated to this House? Are we to make the request as private gentlemen, or as a constitutional organ of the Government. If as private gentlemen, the act would clearly be a nullity; the President would still be at liberty to comply with the request, or not, as he might think proper. If as a constitutional organ of the Government, where is the power given to the Senate? And what would be the remedy if he should refuse to comply? The Senate is the constitutional adviser of the President in the formation of treaties, and in the appointment of officers, &c. The constitution expressly declares that the President shall exercise these powers by and with the advice and consent of the Senate. Here, then, it is their right and their duty to advise him. But the constitution further says: "He shall take care that the laws be faithfully executed." Have the Senate any authority to advise him as to the faithful execution of the laws? They can go no further than they are expressly commissioned by the constitution. The specification of particular Executive powers, by the constitution, is a denial of all others. *Admissio unius est exclusio alterius*; and, as the constitution has given no power to this effect, it follows that no such power can be exercised by the Senate. If the courts have power to try the validity of laws of Congress, they can exercise that power as well without the authority of this resolution as with it. If they have not the power, neither this House nor the Legislature can give it them. The duties and the powers of the Supreme Court are defined by the constitution. Should the Senate, then, adopt the resolution, the Supreme Court would have no power to act under it, unless that power is given by the constitution. Let us, then, examine the authority of this court. The constitution says: "In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction." Will the gentlemen say that these judges are ambassadors, other public ministers or consuls, or that they are a state? If not, the Supreme Court can have no jurisdiction of the case, and the committee have imposed upon the Senate a resolution which they had no authority to submit. As to the law of the last session, by which these judges had been deprived of their offices, Mr. W. had no fear that the Supreme Court, or any body else would attempt to set it aside. The whole nation has approved the measure, as many of those who opposed it have fatally experienced.

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The question on agreeing to the resolution was now taken, and determined in the negative—yeas 13, nays 15, as follows:

YEAS.—Messrs. Dayton, Dwight, Foster, Hillhouse, Howard, J. Mason, Morris, Ogden, Olcott, Plumer, Ross, Tracy, Wells, and White.

NAYS.—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Brown, Clinton, Cocke, Ellery, T. Foster, Jackson, Logan, Nicholas, Stone, Sumter, and Wright.

*Ordered*, That the memorialists have leave to withdraw their memorial.

## MONDAY, February 14.

### *The Mississippi Question.*

After the Senate had finished its deliberations upon the Legislative business before it—

Mr. Ross rose and said, that although he came from a part of the country where the late events

upon the Mississippi had excited great alarm and solicitude, he had hitherto forbore the expression of his sentiments, or to bring forward any measure relative to the unjustifiable, oppressive conduct of the officers of the Spanish Government at New Orleans. He had waited thus long in the hope that some person, more likely than himself to conciliate and unite the opinions of a majority of the Senate, would have offered efficacious measures for their consideration; but, seeing the session now drawing to a close, without any such proposition, he could not reconcile a longer silence either to his own sense of propriety or to the duty he owed to his constituents. He would not consent to go home without making one effort, however feeble or unsuccessful, to avert the calamity which threatened the Western country. Present appearances, he confessed, but little justified the hope that any thing he might propose would be adopted, yet it would at least afford him some consolation, hereafter, that he had done his duty, when the storm was approaching, by warning those who had power in their hands of the means which ought to be employed to resist it.

He was fully aware that the Executive of the United States had acted; that he had sent an Envoy Extraordinary to Europe. This was the peculiar province, and perhaps the duty of the President. He would not say that it was unwise in this state of our affairs to prepare for remonstrance and negotiation, much less was he then about to propose any measure that would thwart negotiation, or embarrass the President. On the other hand, he was convinced that more than negotiation was absolutely necessary, that more power and more means ought to be given to the President, in order to render his negotiations efficacious. Could the President proceed further, even if he thought more vigorous measures proper and expedient? Was it in his power to repel and punish the indignity put upon the nation? Could he use the public force to redress our wrongs? Certainly not. This must be the act of Congress. They are now to judge of ulterior measures; they must give the power, and vote the means to vindicate, in a becoming manner, the wounded honor and the best interests of the country.

Mr. R. said, he held in his hands certain resolutions for that purpose, and, before he offered them to the Senate, he would fully explain his reasons for bringing them forward and pressing them with earnestness, as the best system the United States could now pursue.

It was certainly unnecessary to waste the time of that body in stating that we had a solemn explicit treaty with Spain; that this treaty had been wantonly and unprovokedly violated, not only in what related to the Mississippi, but by the most flagrant, destructive spoliations of our commerce, on every part of the ocean, where Spanish armed vessels met the American flag. These spoliations were of immense magnitude, and demanded the most serious notice of our Government. They had been followed by an indignity and a direct infraction of our treaty relative to the Mississippi, which bore an aspect not to be dissembled or mistaken.

To the free navigation of that river we had an undoubted right from nature, and from the position of our Western country. This right, and the right of deposit in the island of New Orleans, had been solemnly acknowledged and fixed by treaty in 1795. That treaty had been in actual operation and execution for many years; and now, without any pretence of abuse or violation on our part, the officers of the Spanish Government deny the right, refuse the place of deposit, and add the most offensive of all insults, by forbidding us from landing on any part of their territory, and shutting us out as a common nuisance.

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By whom has this outrage been offered? By those who have constantly acknowledged our right, and now tell us that they are no longer owners of the country! They have given it away, and, because they have no longer a right themselves, therefore, they turn us out, who have an undoubted right! Such an insult, such unprovoked malignity of conduct, no nation but this would affect to mistake. And yet we not only hesitate as to the course which interest and honor call us to pursue, but we bear it with patience, tameness, and apparent unconcern.

Sir, said Mr. R., whom does this infraction of the treaty and the natural rights of this country most intimately affect? If the wound inflicted on national honor be not sensibly felt by the whole nation, is there not a large portion of your citizens exposed to immediate ruin by a continuance of this state of things? The calamity lights upon all those who live upon the Western waters. More than half a million of your citizens are by this cut off from a market. What would be the language, what would be the feelings of gentlemen in this House, were such an indignity offered on the Atlantic coast? What would they say if the Chesapeake, the Delaware, or the Bay of New York were shut up, and all egress prohibited by a foreign power? And yet none of these waters embrace the interests of so many as the Mississippi. The numbers and the property affected by shutting this river, are greater than any thing that could follow by the blockade of a river on the Atlantic coast. Every part of the Union was equally entitled to protection, and no good reason could be offered why one part should be less attended to than another.

Fortunately for this country, there could be no doubt in the present case; our national right had been acknowledged, and solemnly secured by treaty. The treaty had been long in a state of execution. It was violated and denied without provocation or apology. The treaty then was no security. This evident right was one, the security of which ought not to be precarious: it was indispensable that the enjoyment of it should be placed beyond all doubt. He declared it therefore to be his firm and mature opinion, that so important a right would never be secure, while the mouth of the Mississippi was exclusively in the hands of the Spaniards. Caprice and enmity occasion constant interruption. From the very position of our country, from its geographical shape, from motives of complete independence, the command of the navigation of the river ought to be in our hands.

We are now wantonly provoked to take it. Hostility in its most offensive shape has been offered

by those who disclaim all right to the soil and the sovereignty of that country—a hostility fatal to the happiness of the Western world. Why not seize then what is so essential to us as a nation? Why not expel the wrongdoers?—wrongdoers by their own confession, to whom by a seizure we are doing no injury. Paper contracts, or treaties, have proved too feeble. Plant yourselves on the river, fortify the banks, invite those who have an interest at stake to defend it: do justice to yourselves when your adversaries deny it; and leave the event to Him who controls the fate of nations.

Why submit to a tardy, uncertain negotiation, as the only means of regaining what you have lost: a negotiation with those who have wronged you; with those who declare they have no right, at the moment they deprive you of yours? When in possession, you will negotiate with more advantage. You will then be in the condition to keep others out. You will be in the actual exercise of jurisdiction over all your claims; your people will have the benefits of a lawful commerce. When your determination is known, you will make an easy and an honorable accommodation with any other claimant. The present possessors have no pretence to complain, for they have no right to the country by their own confession. The Western people will discover that you are making every effort they could desire for their protection. They will ardently support you in the contest, if a contest becomes necessary. Their all will be at stake, and neither their zeal nor their courage need be doubted.

Suppose that this course be not now pursued. Let me warn gentlemen how they trifle with the feelings, the hopes, and the fears of such a body of men, who inhabit the Western waters. Let every honorable man put the question to himself; how would half a million round him be affected by such a calamity, and no prompt measures taken by the Government to redress it? These men have arms in their hands; the same arms with which they proved victorious over their savage neighbors. They have a daring spirit; they have ample means of subsistence; and they have men disposed to lead them on to revenge their wrongs. Are you certain that they will wait the end of negotiation? When they hear that nothing has been done for their immediate relief, they will probably take their resolution and act. Indeed, from all we have heard, there is great reason to believe that they will, or that they may have already taken that resolution.

They know the nature of the obstruction, they know the weakness of the country; they are sure of present success, and they have a bold river to bear them forward to the place of action. They only want a leader to conduct them, and it would be strange, if with such means and such a spirit, a leader should not soon present himself.

Suppose they do go, and do chase away the present oppressors, and that in the end they are overpowered and defeated by a stronger foe than the present feeble possessors. They will never return to you, for you cannot protect them. They will make the best compromise they can with the power commanding the mouth of the river, who, in effect, has thereby the command of their fortunes. Will such a bargain be of light or trivial moment to the Atlantic States. Buonaparte will then say to you, my French West India colonies, and those of my allies, can be supplied from my colony of Louisiana, with flour, pork, beef, lumber, and any other necessary. These articles can be carried by my own ships, navigated by my own sailors. If you, on the Atlantic coast, wish to trade with my colonies in those articles, you must pay fifteen or twenty per cent, of an impost. We want no further supplies from you, and revenue to France must be the condition of all future intercourse. What will you say to this? It will be vain to address your Western brethren, and complain your commerce is ruined, your revenue dwindles, and your condition is desperate. They will reply that you came not to their assistance in the only moment you could have saved them; that you balanced between national honor and sordid interest, and suffered them to be borne down and subdued, at a time when for a trifle you could have secured the Mississippi; that now their interest must be consulted, and it forbade any assistance to you, when following in the same train of ruin which overwhelmed them. If the evil does not immediately proceed the full length of disunion, yet the strength, the unity of exertion, the union of interest will be gone. We are no longer one people, and representatives from that part of the country in our public councils, will partake of the spirit and breathe the sentiments of a distinct nation; they will rob you of your public lands; they will not submit to taxes; they will form a girdle round the Southern States, which may be denominated a foreign yoke, and render the situation of that country very precarious as to its peace and past connections. Indeed, every aspect of such a state of things is gloomy and alarming to men who take the trouble of reflecting upon it.

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Where is the nation, ancient or modern, that has borne such treatment without resentment of resistance? Where is the nation that will respect another that is passive under such humiliating degradation and disgrace? Your outlet to market closed, next they will trample you under foot upon your own territory which borders upon theirs! Yet you will not stir, you will not arm a single man; you will negotiate! Negotiation alone, under such circumstances, must be hopeless. No. Go forward, remove the aggressors, clear away the obstructions, restore your possession with your own hand, and use your sword if resistance be offered. Call upon those who are most injured, to redress themselves; you have only to give the call, you have men enough near to the scene, without sending a man from this side the mountains; force sufficient, and more than sufficient, for a prompt execution of your orders. If money be an object, one half of the money which would be consumed and lost by delay and negotiation, would put you in possession; then you may negotiate whether you shall abandon it and go out again.

I say, also, let us go and redress ourselves; you will have the whole nation with you. On no question since the Declaration of Independence, has the nation been so unanimous as upon this. We have at different times suffered great indignity and outrages from different European Powers; but none so palpable, so inexcusable, so provoking, or of such magnitude in their consequences,

as this. Upon none has public opinion united so generally as this. It is true we have a lamentable division of political opinion among us, which has produced much mischief, and may produce much greater than any we have yet felt. On this question, party spirit ought to sink and disappear. My opinions are well known, and are not likely to change; but I candidly, and with all possible sincerity, declare my conviction to be clear, that there will not be a dissenting voice in the Western country if this course be taken; that so far as my own abilities go, they shall be exerted to the utmost to support it; and I know that my friends on this floor with whom I have long thought and acted, have too high a regard for the national honor, and the best interests of their country, to hesitate a moment giving the same pledge of their honest determination to support and render these measures effectual, if taken: call them ours, if you please, we take the responsibility, and leave the execution of them with you. For, as to myself or my friends, no agency is wished, except that of uniting with you in rousing the spirit, and calling out the resources of the country, to protect itself against serious aggression, and the total subjection and loss of the Western country.

Mr. R. then read his resolutions, which are as follows:

"*Resolved*, That the United States have an indisputable right to the free navigation of the river Mississippi, and to a convenient place of deposit for their produce and merchandise in the island of New Orleans.

"That the late infraction of such their unquestionable right, is an aggression hostile to their honor and interest.

"That it does not consist with the dignity or safety of this Union to hold a right so important by a tenure so uncertain.

"That it materially concerns such of the American citizens as dwell on the Western waters, and is essential to the union, strength, and prosperity of these States, that they obtain complete security for the full and peaceable enjoyment of such their absolute right.

"That the President be authorized to take immediate possession of such place or places, in the said island, or the adjacent territories, as he may deem fit and convenient for the purposes aforesaid; and to adopt such other measures for obtaining that complete security as to him in his wisdom shall seem meet.

"That he be authorized to call into actual service any number of the militia of the States of South Carolina, Georgia, Ohio, Kentucky, Tennessee, or of the Mississippi Territory, which he may think proper, not exceeding fifty thousand, and to employ them, together with the military and naval forces of the Union, for effecting the objects above mentioned.

"That the sum of five millions of dollars be appropriated to the carrying into effect the foregoing resolutions, and that the whole or any part of that sum be paid or applied, on warrants drawn in pursuance of such directions as the President may, from time to time, think proper to give to the Secretary of the Treasury."<sup>[69]</sup>

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## **MONDAY, February 21.**

The VICE PRESIDENT communicated the credentials of THEODORUS BAILEY, appointed a Senator by the State of New York, to take his seat after the third day of March next; which were read, and ordered to lie on file.

## **TUESDAY, February 22.**

### ***Purchase of Louisiana.***

In Executive session, the bill, entitled "An act making further provision for the expenses attending the intercourse between the United States and foreign nations," was read the third time.

On the question, Shall this bill pass? it was determined in the affirmative—yeas 14, nays 12, as follows:

YEAS.—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Clinton, Cocke, Ellery, T. Foster, Jackson, Logan, S. T. Mason, Nicholas, Sumter, and Wright.

NAYS.—Messrs. Dayton, D. Foster, Hillhouse, Howard, J. Mason, Morris, Olcott, Plumer, Ross, Stone, Wells and White.

So it was *Resolved*, That this bill pass.<sup>[70]</sup>

## **WEDNESDAY, February 23.**

### ***Mississippi Question.***

Mr. WHITE, of Delaware, rose and addressed the Chair as follows: Mr. President, on this subject, which has on a former day been discussed with so much ability, and with so much eloquence, by my friend from Pennsylvania, the honorable mover of the resolutions, I shall submit the few

observations that I may make, in as concise a manner as I am capable of; for it is very far from my wish to occupy the time or attention of the Senate unnecessarily. The resolutions on your table I approve of in their full extent; I believe they express the firm and manly tone that at this moment is especially becoming the dignity of the Government to assume; I believe they mark out a system of measures, which, if promptly pursued, will be honorable to the nation, and equal to the accomplishment of the important object which gentlemen on all sides seem to have in view. These alone, with me, would be sufficient inducements to yield them my feeble support; but in addition to these, and to the thorough conviction of my own mind as to the course I ought to pursue, I have the happiness of being supported in my opinions on this subject by the unequivocal expression of the sentiment of the State to which I have the honor to belong.

It was early seen, Mr. President, and required but little penetration to discover, that adventurers emigrating beyond the mountains, and settling on the Western waters, must possess the free navigation of the Mississippi, it being their only outlet to the ocean. This important privilege it became necessary on the part of the Government of the United States to secure by treaty, and not leave to the capricious will of whatever nation who might in future hold the territory at the mouth of the river. Accordingly, in the 4th and 23d articles of our Treaty with Spain, I find on this subject the following stipulation:

"ART. 4. It is likewise agreed that the western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said States to the completion of the 31st degree of latitude north of the equator. And His Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other powers by special convention."

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"ART. 22. The two high contracting parties, hoping that the good correspondence and friendship which happily reigns between them will be further increased by this treaty, and that it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favor which the advantages of both countries may require.

"And in consequence of the stipulations contained in the 4th article, His Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandise and effects in the port of New Orleans, and to export them from thence without paying any other duty than a fair price for the hire of the stores; and His Majesty promises either to continue this permission, if he finds, during that time, that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment."

This instrument, Mr. President, it is known, for a time, quieted the fears and jealousies of our Western brethren; they supposed it had removed for ever the possibility of any future embarrassment to their commerce on those waters. And after it had been proclaimed as the law of the land—after it had been ratified by both nations, and become obligatory upon the faith and honor of each, who could have thought otherwise? Yet, sir, it has happened otherwise. This place of deposit at New Orleans, secured to our citizens by the article last read, has been recently wrested from their hands by the authority of the Spanish Government, and no other equivalent one assigned, where, after more than two thousand miles of boat navigation, they may disembark their produce in order to be shipped for sea; and without this advantage the navigation of the river is to them but an empty name.

I have said, by the authority of the Spanish Government, it has indeed been given out to the world, for reasons that every man may conjecture, and are unnecessary to be mentioned, that this was not the act of the Government, but the rash measure of a single officer—the Intendant General of the Spanish provinces; that the Spanish Minister had issued orders for the speedy adjustment of these difficulties; had kindly offered to throw himself into the breach to prevent this Intendant General from going to extremities with the Government of the United States. Sir, gentlemen may find, when too late, that this is a mere piece of diplomatic policy, intended only to amuse them; and to say nothing of the humiliating idea of resorting to such a plaster for the wound that has been inflicted upon our national honor, if they had taken the trouble, they might have been informed that the Spanish Minister near this Government has no control at New Orleans; that the Intendant General is, like himself, an immediate officer of the Crown, and responsible only to the Crown for his conduct. If the Spanish Minister has interfered, which I am not disposed to question, to make the best of it, it could only have been by the entreaties of men in power, as a mere mediator, to beg of the Intendant General of New Orleans justice and peace on behalf of the people of the United States. Are honorable gentlemen prepared to accept peace on such terms? They might do, sir, for a tribe of starving Indians; but is this the rank that we are to hold among the nations of the world? And it seems that even these supplicating advances are likely to avail us nothing. By accounts very lately received from New Orleans, by a private letter which I have seen since these resolutions were submitted to the Senate, the Intendant General has expressed much displeasure at the interference of the Spanish Minister, stating that it was not within his duty or his province, and that he, the Intendant, acted not under Spanish but French orders.

As to the closing of the port of New Orleans against our citizens, the man who can now doubt, after viewing all the accompanying circumstances, that it was the deliberate act of the Spanish or



French Government, must have locked up his mind against truth and conviction, and be determined to discredit even the evidence of his own senses. But, sir, it is not only the depriving us of our right of deposit by which we have been aggrieved, it is by a system of measures pursued antecedent and subsequent to that event, equally hostile and even more insulting. I have in my hand a paper, signed by a Spanish officer, which, with the indulgence of the Chair, I will read to the Senate:

ADVERTISEMENT.—Under date of the 16th instant, (December,) the Intendant General of these provinces tells me that the citizens of the United States of America can have no commerce with His Majesty's subjects—they only having the free navigation of the river for the exportation of the fruits and produce of their establishments to foreign countries, and the importation of what they may want from them. As such I charge you, so far as respects you, to be zealous and vigilant, with particular care, that the inhabitants neither purchase nor sell any thing to the shipping, flat-bottomed boats, barges, or any other smaller vessels that may go along the river, destined for the American possessions, or proceeding from them, that they shall be informed of it, for their due compliance of the same.

CARLOS DE GRANDPRE.

BATON ROUGE, *Dec. 22, 1802.*

These are the measures, Mr. President, that have been adopted; these are the orders that have been issued by the Intendant General to every district of the Spanish provinces, prohibiting the subjects of His Catholic Majesty from having any commerce, dealing, intercourse, or communion whatsoever with the citizens of the United States; excluding us from their shores for the distance of two hundred and seventy miles; treating us like a nation of pirates, or a banditti of robbers, who they feared to trust in their country. And this day, sir, if a vessel belonging to a citizen of the United States, engaged in a fair and legal trade, was upon the waters of the Mississippi, within the Spanish lines, and in a state of the most extreme distress, the Spaniard who should yield her aid or comfort would do it at the peril of his life.

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If it should be said, sir, that this important question will not long be an affair of controversy between the United States and Spain; that Louisiana, New Orleans, and this usurped claim of the Spanish Government to the exclusive navigation of the Mississippi, will soon be found in other hands; that whenever we may have to negotiate on this subject, either in the cabinet or the field, it will not be with His Catholic Majesty, but with the First Consul; not with a King, but with the King of Kings—I answer that in these insults to our national dignity, we at present know no power but Spain. Whatever agency Buonaparte may have had in this business, he has been concealed from our view. It is Spain that has violated her plighted faith; it is Spain that has trampled upon the dearest interests of the United States, and insulted our Government to our faces without the semblance of a cause, and she alone is responsible to us for these outrages. And, under such circumstances, is it becoming, politic, or honorable in us to treat her as a friend and as a neighbor; to remonstrate with her on her acts of injustice, and wait till she shall add insult to insult, and heap injury upon injury; or what is perhaps even worse, if any thing worse than national degradation can befall an independent people, till this golden opportunity shall have passed away, and the facility of redress be wrested from our hands? No, sir, we should now view her as our open enemy, as having declared war against us, and do justice to ourselves. We can never have permanent peace on our Western waters, till we possess ourselves of New Orleans, and such other positions as may be necessary to give us the complete and absolute command of the navigation of the Mississippi. We have now such an opportunity of accomplishing this important object as may not be presented again in centuries, and every justification that could be wished for availing ourselves of the opportunity. Spain has dared us to the trial, and now bids us defiance; she is yet in possession of that country: it is at this moment within your reach and within your power; it offers a sure and easy conquest; we should have to encounter there now only a weak, inactive, and unenterprising people; but how may a few months vary this scene, and darken our prospects! Though not officially informed we know that the Spanish provinces on the Mississippi have been ceded to the French, and that they will as soon as possible take possession of them. What may we then expect? When in the last extremity we shall be driven to arms in defence of our indisputable rights, where now slumbers on his post with folded arms the sluggish Spaniard, we shall be hailed by the vigilant and alert French grenadier, and in the defenceless garrison that would now surrender at our approach, we shall see unfurled the standards that have waved triumphant in Italy, surrounded by impregnable ramparts, and defended by the disciplined veterans of Egypt.

But, Mr. President, what is more than all to be dreaded, in such hands, it may be made the means of access and corruption to your national councils and a key to your Treasury. Your Western people will see in Buonaparte, at their very doors, a powerful friend or a dangerous enemy; and should he, after obtaining complete control over the navigation of the Mississippi, approach them, not in the menacing attitude of an enemy, but under the specious garb of a protector and a friend; should he, instead of embarrassing their commerce by any fiscal arrangements, invite them to the free navigation of the river, and give them privileges in trade not heretofore enjoyed; should he, instead of attempting to coerce them to his measures, contrary to their wishes, send missionaries into their country to court and intrigue with them, he may seduce their affections, and thus accomplish by address and cunning, what even his force might not be equal to. In this way, having operated upon their passions, having enlisted in his service their hopes and their fears, he may gain an undue ascendancy over them. Should these things be effected, which God forbid—but Buonaparte in a few years has done much more—what, let me ask honorable

gentlemen, will be the consequences? I fear even to look them in the face. The degraded countries of Europe, that have been enslaved by the divisions and distractions of their councils, produced by similar means, afford us melancholy examples. Foreign influence will gain admittance to your national councils; the First Consul, or his interests, will be represented in the Congress of the United States; this floor may become the theatre of sedition and intrigue. You will have a French faction in the Government, and that faction will increase, with the rapidly increasing population of the Western world. Whenever this period shall arrive, it will be the crisis of American glory, and must result, either in the political subjugation of the Atlantic States, or in their separation from the Western country; and I am sure there is no American who does not view as one of the greatest evils that could befall us, the dismemberment of this Union. Honorable gentlemen may wrap themselves up in their present imaginary security, and say that these things are afar off, or that they can never happen; but let me beseech of them to look well to the measures they are now pursuing, for, on the wisdom, the promptness, and energy of those measures, will depend whether they shall happen or not. And let me tell them, sir, that the want of firmness or judgment in the cabinet, will be no apology for the disgrace and ruin of the nation.

Mr. BRECKENRIDGE observed, that he did not mean to wander in the field of declamation, nor, after the example of the honorable gentleman who had preceded him, endeavor to alarm or agitate the public mind; that he should endeavor to strip the subject of all improper coloring, and examine dispassionately the propriety of the measures which the Senate were called upon to sanction. He would be very brief.

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What is the true and undisguised state of facts? Early in the session, the House of Representatives were informed, by a communication from the President, of the conduct of the Intendant at New Orleans. This communication stated, that he had taken measures to attempt a restoration of the right which had been violated; and that there were reasons to believe that the conduct of the Intendant was unauthorized by the Court of Spain. Accompanying this message were official papers, in which it appeared that the Governor of New Orleans had strongly opposed the conduct of the Intendant, declared that he was acting without authority in refusing the deposit, and indicated a disposition to oppose openly the proceeding. The Spanish Minister who resides here, also interposed on the occasion, and who stands deservedly high in the confidence of his Government, was clearly of opinion, that the Intendant was acting without authority, and that redress would be given so soon as the competent authority could interpose. From this state of things, and which is the actual state at this moment, what is the course any civilized nation who respects her character or rights, would pursue? There is but one course, which is admitted by writers on the laws of nations, as the proper one; and is thus described by *Vattel*, in his book, sec. 336, 338:

"A sovereign ought to show, in all his quarrels, a sincere desire of rendering justice and preserving peace. He is obliged before he takes up arms, and after having taken them up also, to offer equitable conditions, and then alone his arms become just against an obstinate enemy, who refuses to listen to justice or to equity. His own advantage, and that of human society, oblige him to attempt, before he takes up arms, all the pacific methods of obtaining either the reparation of the injury, or a just satisfaction. This moderation, this circumspection, is so much the more proper, and commonly even indispensable, as the action we take for an injury does not always proceed from a design to offend us, and is sometimes a mistake rather than an act of malice: frequently it even happens, that the injury is done by inferior persons, without their sovereign having any share in it; and on these occasions, it is not natural to presume that he would refuse us a just satisfaction."

This is the course which the President has taken, and in which the House of Representatives have expressed, by their resolution, their confidence.

What are the reasons urged by the gentlemen to induce a different proceeding, an immediate appeal to arms? You prostrate, say the gentlemen, your national honor by negotiating, where there is a direct violation of a treaty! How happens it that our national honor has, at this particular crisis, become so delicate, and that the feelings of certain gentlemen are now so alive to it? Has it been the practice of this Government heretofore to break lances on the spot with any nation who injured or insulted her? Or has not the invariable course been to seek reparation in the first place by negotiation? I ask for an example to the contrary; even under the Administration of WASHINGTON, so much eulogized by the gentleman last up. Were not the Detroit, and several other forts within our territory, held ten or a dozen years by Great Britain, in direct violation of a treaty? Were not wanton spoliations committed on your commerce by Great Britain, by France, and by Spain, to the amount of very many millions; and all adjusted through the medium of negotiations? Were not your merchants plundered, and your citizens doomed to slavery by Algiers, and still those in power, even WASHINGTON himself, submitted to negotiation, to ransom, and to tribute? Why then do gentlemen, who on those occasions approved of these measures, now despair of negotiation? America has been uniformly successful, at least in settling her differences by treaty.

But the gentleman is afraid that if we do not immediately seize the country, we shall lose the golden opportunity of doing it. Would your national honor be free from imputation by a conduct of such inconsistency and duplicity? A minister is sent to the offending nation with an olive-branch, for the purpose of an amicable discussion and settlement of differences, and before he has scarcely turned his back, we invade the territories of that nation with an army of fifty thousand men! Would such conduct comport with the genius and principles of our Republic,

whose true interest is peace, and who has hitherto professed to cultivate it with all nations? Would not such a procedure subject us to the just censure of the world, and to the strongest jealousy of those who have possessions near to us? Would such a procedure meet the approbation of even our own citizens, whose lives and fortunes would be risked in the conflict? And would it not be policy inexcusably rash, to plunge this country into war, to effect that which the President not only thinks can be effected, but is now actually in a train of negotiation? If, on the other hand, negotiation should fail, how different will be the ground on which we stand! We stand acquitted by the world, and what is of more consequence, by our own citizens, and our own consciences. But one sentiment will then animate and pervade the whole, and from thenceforth we will take counsel only from our courage.

But to induce us to depart from this proper, this safe, and honorable course of proceeding, which is pursuing by the President, the gentleman from Pennsylvania first, and the gentleman from Delaware again told you, that by such pacific measures you will irritate the Western people against you; that they will not be restrained by you, but will either invade the country themselves, or withdraw from the Union and unite with those who will give them what they want. Sir, said Mr. B., I did not expect to hear such language held on this floor. Sir, the gentleman from Pennsylvania best knows the temper and views of the Western people he represents, but if he meant to extend the imputation to the State I have the honor to represent, I utterly disclaim it. The citizens of Kentucky value too highly their rights and character to endanger the one or dishonor the other. They deal not, sir, in insurrections. They hold in too sacred regard their federal compact to sport with it. They were among the first to oppose violations of it, and will, I trust, be the last to attempt its dissolution. The time indeed was, when not only irritation but disgust prevailed in that country; when, instead of sending fifty thousand men to seize on Orleans, an attempt was meditated, and a solemn vote taken in Congress to barter away this right for twenty-five years. The time indeed was, when great dissatisfaction prevailed in that country, as to the measures of the General Government; but it never furnished there, whatever it might have done elsewhere, even the germs for treasons or insurrections. The people I have the honor to represent are not accustomed to procure redress in this way. Instead of trampling on the constitution of their country, they rally round it as the rock of their safety. But, unhappily, these times have passed away. Distrust and dissatisfaction have given place to confidence in, and attachment to those in whom the concerns of the nation are confided. I ask no reliance on my opinion for this fact, but appeal to the memorial of the Legislature of Kentucky to the present Congress, for the truth of this assertion. In this disposition of mind, therefore, and from the sound sense and correct views and discernment of their true interest, which the people of Kentucky possess, I have no hesitation in pledging myself, that no such precipitate and unwarranted measures will be taken by them, as predicted by the gentlemen in the opposition.

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But he begged leave to ask gentlemen who hold such language, would the Western people, admitting they were to withdraw from the Union, be able to accomplish the object? Could they alone go to war with France and Spain? Could they hold Orleans, were they to take possession of it, without the aid of the United States? Admitting they could hold it, what security would they have for their commerce? A single ship of the line would be able completely to blockade that port. See, also, the Havana, one of the safest and strongest of the Spanish ports, and so situated as to possess every advantage in annoying our commerce. Are the gentlemen, therefore, really serious when they endeavor to persuade us that the Western people are in such a state of fury and mad impatience that they will not wait even a few months to see the fate of a negotiation, and, if unsuccessful, receive the aid of the whole nation, but that they will madly run to the attack without a ship, without a single cannon, without magazines, without money or preparation of any kind; and, what is worse, without union among themselves; and what is still worse, in face of the laws and constitution of their country? It is impossible. Such a desperate project could not come to a successful issue; for should they even obtain the right by their own exertions alone, they could not expect long to enjoy it in peace, without descending from that exalted, that enviable rank of one of the independent States of United America, to the degraded, dependent condition of a colonial department of a foreign nation.

Although he thought it incumbent on us, for the reasons he had stated, to try the effect of negotiation, yet, should that fail, he thought it incumbent on us also to be prepared for another resort. He considered this right, and upon a different footing from what we ever enjoyed it, so all-important, so indispensable to the very existence of the Western States, that it was a waste of words and time to attempt to portray the evils which a privation of it would produce; and he rejoiced to find that gentlemen with whom he had not been in the habit of voting on most political subjects so perfectly accord with him, that our precarious tenure of it must be changed. He hoped they were sincere in their declarations. If they were, the only difference between us now is, what are the proper means to obtain this great end? The course pursued by the President was, in his opinion, the only true and dignified course. It is that, and that only, which will certainly attain the object; and is the only one which will tend to unite cordially all parts of the Union. But we ought to be prepared, in case of a failure, instantly to redress ourselves. This, instead of having an evil, would, in his opinion, have a good effect on the negotiation. It would show, that although we are willing amicably to adjust our differences, yet that we are not only resolved on, but prepared for that resort which cannot fail to restore our violated rights. With that view, he would offer the following resolutions, as substitutes for those proposed by the gentleman from Pennsylvania.

He moved that the whole of the resolutions be struck out, excepting the word "*Resolved*," and the following be substituted in their place—after the word "*Resolved*:"

"That the President of the United States be, and he is hereby authorized, whenever he shall judge it expedient, to require of the Executives of the several States to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, eighty thousand effective militia, officers included.

*Resolved*, "That the President may, if he judges it expedient, authorize the Executives of the several States, to accept, as part of the detachment aforesaid, any corps of volunteers; who shall continue in service for such time, not exceeding — months, and perform such services as shall be prescribed by law.

*Resolved*, "That — dollars be appropriated for paying and subsisting such part of the troops aforesaid, whose actual service may be wanted, and for defraying such other expenses as, during the recess of Congress, the President may deem necessary for the security of the territory of the United States.

*Resolved*, "That — dollars be appropriated for erecting at such place or places on the Western waters, as the President may judge most proper, one or more arsenals."

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Mr. CLINTON.—The importance of a free navigation of the Mississippi has been duly appreciated by the Government, and a constant eye has been kept upon it in our negotiations with foreign powers. An attempt was, indeed, made under the Old Confederation to barter it away for twenty-five years, which, however, was effectually controlled by the good sense and patriotism of the Government. By the Treaty of Peace with Great Britain in 1783, by the Treaty of Amity, Commerce, and Navigation with her in 1794, and by the Treaty of Friendship, Limits, and Navigation with Spain, in 1795, the right of a free navigation of the Mississippi is recognized, and declared to exist from its source to the ocean, in the citizens of the United States. By the 22d article of the Treaty with Spain, it is declared that, "in consequence of the stipulations contained in the 4th article, his Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandise and effects in the port of New Orleans, and to export them from thence without paying any other duty than a fair price for the hire of the stores. And his Majesty promises either to continue this permission if he finds during that time that it is not prejudicial to the interests of Spain; or, if he should not agree to continue it there, he will assign to them, on another part of the lands of the Mississippi, an equivalent establishment." The 22d article, granting the right of deposit, is, therefore, founded upon the 4th article recognizing the right of free navigation, and is intended to give full and complete efficacy to it. By a proclamation of the Intendant of the Province of Louisiana, dated the 16th of October last, the right of deposit is prohibited. The reason assigned for this daring interdiction is, that the three years for which it was granted having expired, it cannot be continued without an express order from the King of Spain; and at the same time no equivalent establishment is assigned, according to the stipulations of the Treaty.

There can be no doubt but that the suspension of the right of deposit at New Orleans, and the assignment of another place equally convenient, ought to have been contemporaneous and concurrent; that the conduct of the Intendant is an atrocious infraction of the treaty, and that it aims a deadly blow at the prosperity of the Western States; but it is extremely questionable whether it was authorized by the Government of Spain or not. On this subject I am free to declare that I entertain great doubts, which can only be cleared up by the course of events, or perhaps it will be enveloped in darkness. On the one hand, the terms of the proclamation, indicating a misunderstanding of the treaty, the remonstrances of the Governor of the Province, whose authority does not extend to commercial and fiscal affairs, over which the Intendant has an exclusive control, and the prompt and decided assurances of the Spanish Minister near the United States, would induce a belief that the act of the Intendant was unauthorized. On the other hand, it cannot readily be believed that this officer would assume such an immense responsibility, and encounter an event so big with important consequences, not only to his country but to himself, without knowing explicitly the intentions of his Government. Such, then, is the true state of the Spanish aggression: an important right had been secured to our citizens by the solemnity of a treaty. This right had been withdrawn by an officer of the Spanish Government, and whether this aggression was directed by it or not, is not as yet known. Other aggressions have, indeed, been stated by the honorable gentleman from Pennsylvania, (Mr. Ross,) in order to darken the picture, and with the manifest design of exasperating our feelings, inflaming our passions, and prompting an immediate appeal to the sword.

As to the nature, character, and tendency of the remedy proposed, there can be but one opinion. It proposes to enter the country of a foreign nation with a hostile force, and to seize a part of its territory. It is not preceded by a formal declaration, and cannot, therefore, come under the denomination of a solemn war, but it partakes of the character of a war not solemn. It answers to the definition of war, by *Burlamaqui*, "a nation taking up arms with a view to decide a quarrel;" to that given by *Vattel*, who represents it to be "that state in which a nation prosecutes its right by force." A state of general hostilities would as necessarily follow as an effect would follow a cause; no nation would submit to the irruption of a hostile army without repelling it by force; the proud Castilian, as described by the gentleman from Delaware, would revolt at the insult; the door of negotiation would be effectually closed, and as the appeal would be to arms in the first instance, so the controversy must be finally decided by the preponderance of force. It would, therefore, not only have impressed me with a more favorable opinion of the honorable mover's candor, but also of his decision and energy as a statesman, if he had spoken out boldly, and declared his real object. War is unquestionably his design—his wish. Why, then, mask his proposition? Why

combine it with considerations connected with negotiation? Why not furnish the American people at once with the real and the whole project of himself and his friends? If it is bottomed on patriotism and dictated by wisdom, it need not shrink from the touch of investigation—it will receive their approving voice, and be supported by all their force. The resolution is then to be considered as a war resolution; in no other light can it be viewed; in no other light ought it to be viewed; and in no other light will it be viewed by the intelligence of the country. In this point of view, I will proceed, said Mr. C., to consider its justice and policy; its conformity with the laws and usage of nations, and the substantial interests of this country.

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I shall not attempt to occupy your attention by threadbare declamation upon the evils of war, by painting the calamities it inflicts upon the happiness of individuals, and the prosperity of nations. This terrible scourge of mankind, worse than the famine or pestilence, ought not to be resorted to until every reasonable expedient has been adopted to avert it. When aggressions have been committed by the sovereign or representatives of a nation, negotiation ought in all cases to be first tried, unless the rights of self-defence demand a contrary course. This is the practice of nations, and is enjoined by the unerring monitor which the God of Nature has planted in every human bosom. What right have the rulers of nations to unsheath the sword of destruction, and to let loose the demon of desolation upon mankind, whenever caprice or pride, ambition or avarice, shall prescribe? And are there no fixed laws founded in the nature of things which ordain bounds to the fell spirit of revenge, the mad fury of domination, and the insatiable thirst of cupidity? Mankind have not only in their individual character, but in their collective capacity as nations, recognized and avowed in their opinions and actions, a system of laws calculated to produce the greatest happiness of the greatest number. And it may be safely asserted, that it is a fundamental article of this code, that a nation ought not to go to war, until it is evident that the injury committed is highly detrimental, and that it emanated from the will of the nation charged with the aggression, either by an express authorization in the first instance, or by a recognition of it when called upon for redress, and a refusal in both cases to give it. A demand of satisfaction ought to precede an appeal to arms, even when the injury is manifestly the act of the Sovereign; and when it is the act of a private individual, it is not imputable to his nation, until his Government is called upon to explain and redress, and refuses; because the evils of war are too heavy and serious to be incurred, without the most urgent necessity; because remonstrance and negotiation have often recalled an offending nation to a sense of justice, and a performance of right; because nations, like individuals, have their paroxysms of passion, and when reflection and reason resume their dominion, will extend that redress to the olive-branch, which their pride will not permit them to grant to the sword; because a nation is a moral person, and, as such, is not chargeable with an offence committed by others, or where its will has not been consulted, the unauthorized conduct of individuals being never considered a just ground of hostility, until their sovereign refuses that reparation for which his right of controlling their actions, and of punishing their misconduct, necessarily renders him responsible. These opinions are sanctioned by the most approved elementary writers on the laws of nations.

If I were called upon to prescribe a course of policy most important for this country to pursue, it would be to avoid European connections and wars. The time must arrive when we will have to contend with some of the great powers of Europe, but let that period be put off as long as possible. It is our interest and our duty to cultivate peace, with sincerity and good faith. As a young nation, pursuing industry in every channel, and adventuring commerce in every sea, it is highly important that we should not only have a pacific character, but that we should really deserve it. If we manifest an unwarrantable ambition, and a rage for conquest, we unite all the great powers of Europe against us. The security of all the European possessions in our vicinity will eternally depend, not upon their strength, but upon our moderation and justice. Look at the Canadas—at the Spanish territories to the South—at the British, Spanish, French, Danish, and Dutch West India islands—at the vast countries to the West, as far as where the Pacific rolls its waves; consider well the eventful consequences that would result if we were possessed by a spirit of conquest; consider well the impression which a manifestation of that spirit will make upon those who would be affected by it. If we are to rush at once into the territory of a neighboring nation, with fire and sword, for the misconduct of a subordinate officer, will not our national character be greatly injured? Will we not be classed with the robbers and destroyers of mankind? Will not the nations of Europe perceive in this conduct the germ of a lofty spirit and an enterprising ambition which will level them to the earth, when age has matured our strength and expanded our powers of annoyance, unless they combine to cripple us in our infancy? May not the consequences be, that we must look out for a naval force to protect our commerce; that a close alliance will result; that we will be thrown at once into the ocean of European politics, where every wave that rolls, and every wind that blows, will agitate our bark? Is this a desirable state of things? Will the people of this country be seduced into it by all the colorings of rhetoric, and all the arts of sophistry—by vehement appeals to their pride, and artful addresses to their cupidity? No, sir. Three-fourths of the American people (I assert it boldly, and without fear of contradiction) are opposed to this measure. And would you take up arms with a millstone hanging around your neck? How would you bear up, not only against the force of the enemy, but against the irresistible current of public opinion? The thing, sir, is impossible; the measure is worse than madness; it is wicked beyond the powers of description.

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It is in vain for the mover to oppose these weighty considerations by menacing us with an insurrection in the Western States, that may eventuate in their seizure of New Orleans without the authority of Government; their throwing themselves into the arms of a foreign power; or in a dissolution of the Union. Such threats are doubly improper—improper as they respect the persons to whom they are addressed, because we are not to be deterred from the performance of

our duty by menaces of any kind, from whatever quarter they may proceed; and it is no less improper to represent our Western brethren as a lawless, unprincipled banditti, who would at once release themselves from the wholesome restraints of law and order; forego the sweets of liberty, and either renounce the blessings of self-government, or, like Goths and Vandals, pour down with the irresistible force of a torrent upon the countries below, and carry havoc and desolation in their train. A separation by a mountain, and a different outlet into the Atlantic, cannot create any natural collision between the Atlantic and Western States; on the contrary, they are bound together by a community of interests, and a similarity of language and manners—by the ties of consanguinity and friendship, and a sameness of principles. There is no reflecting and well-principled man in this country who can view the severance of the States without horror, and who does not consider it as a Pandora's box, which will overwhelm us with every calamity; and it has struck me with not a little astonishment that, on the agitation of almost every great political question, we should be menaced with this evil. Last session, when a bill repealing a Judiciary act was under consideration, we were told that the Eastern States would withdraw themselves from the Union, if it should obtain; and we are now informed that, if we do not accede to the proposition before us, the Western States will hoist the standard of revolt and dismember the empire. Sir, these threats are calculated to produce the evils they predict, and they may possibly approximate the spirit they pretend to warn us against. They are at all times unnecessary, at all times improper, at all times mischievous, and ought never to be mentioned within these walls.

Mr. J. JACKSON, of Georgia.—Coming from a State, at the extreme of the Union in the South, and excepting the States immediately interested in the navigation of the Mississippi, the most concerned, on the present occasion, of any in the Union, he hoped it would not be deemed improper in him to offer his sentiments on the resolution before the Senate; for, sir, no event can affect the settlers on the Mississippi, no change of masters can take place there, without the shock being felt on the frontiers of Georgia. The nation which holds New Orleans must eventually possess the Floridas, and Georgia cannot remain an indifferent spectator; in case of war, the blow struck on that river will be vibrated on the Saint Mary's, and the attack on the one will be seconded by an attack on the other.

The gentlemen from Kentucky and Tennessee have not those fears expressed by the gentleman from Pennsylvania; they have declared their citizens satisfied with negotiation in the first place, and the conduct pursued by the Executive. He could say the same, as respects the citizens of the State he represents, and begged leave to read a letter on the subject, from a respectable gentleman of Georgia, applauding the appointment of Mr. Monroe. [He here read a letter expressing the approbation generally expressed at the nomination.]

That there has been an indignity offered to the United States by the Spanish Government of New Orleans, he should not deny; so far, he joined the gentlemen on the other side, as not only to declare that sense of it, but to assert that the withdrawing the right of deposit, given under the fourth article of our treaty with Spain, concluded at San Lorenzo el Real, prior to the pointing out another place for that purpose, is such a violation of our right, and such an insult to the dignity of the nation, as ought not to be put up with in silence. We ought, we are bound to demand a restoration of that right, and to secure it to our Western citizens, let the risk be what it may, if it even extends to life and fortune. He cordially agreed with the gentleman who had preceded him, (Mr. MASON,) that it is a momentous subject; but could not consent to go at once to war, without trying, in the first place, every peaceable mode to obtain redress.

The first part of the resolution declares, that the United States have an indisputable right to the free navigation of the river Mississippi, and to a convenient place of deposit for their produce and merchandise, in the island of New Orleans. Now, sir, the former part of this resolution is not affected by any proceedings of the Spanish Government. You are as perfectly in possession of the right as you ever were; your vessels are at this moment freely navigating that river; you have not heard of a single interruption; you have not learnt that the Spaniards, so far from interrupting that navigation, have ever doubted your right. Why then, sir, resolve on the assertion of rights which are not questioned, but of which you are completely in possession! He could compare it to no other case than that of a man in private life, in peaceable possession of his house, resolving on and publishing his own right to it, and thereby rousing the suspicions of his neighbors to doubt the title to it. Passing over the latter division of the first resolution, and which he acknowledged to be the fact, let us consider the second proposition, "That the late infraction of such their unquestionable right, is an aggression hostile to their honor and interest." Sir, after a declaration of this kind, can you retract? You cannot; it is in fact a declaration of war itself. Many of the courts of Europe would consider it so, and have engaged in war for less cause of offence than this resolution contains. You pronounce at once, without knowing whether the proceedings at New Orleans were sanctioned by the Court of Spain, that that nation is in a state of hostility against your honor and interest, which declaration, coupled with the following resolution, "That it does not consist with the dignity or safety of this Union to hold a right so important by a tenure so uncertain," is a direct insult to that nation. But if war is not to be found in those resolutions, is it not in the fifth resolution, "That the President be authorized to take immediate possession of such place or places in the said island, or the adjacent territories, as he may deem fit or convenient." Is this not war? If it be not, he knew not what war was! And now let us inquire, if we should be justified in adopting those measures, on the grounds of public or private justice, or the laws of nations.

Sir, the going to war has always been considered, even among barbarous nations, a most serious thing; and it has not been undertaken without the most serious deliberation. It was a practice

among the Romans, prior to undertaking a war, to consult the *faciales* on the justice of it; and, after it had been declared just, to refer it to the Senate, to judge of the policy of it; and unless the justice and the policy were both accorded in, the war was not undertaken. If this was the case then among barbarous nations, shall we, who call ourselves a civilized nation, not well weigh the justice and the policy of going to war, before we undertake it?

As to national honor and dignity, he believed we have all a proper sense of it, and he would be one of the last on this floor to put up with insult and indignity from any nation; but, as much as we had heard of it, he did not think we ought, without negotiation, to resent every injury by war. In many cases, national honor is only a convertible term for national interest; and he begged leave to relate an anecdote of a celebrated soldier on this head. After the failure of the attempted storm of Savannah, in the year 1779, Count D'Estaing, who was wounded in the attack, and lay in that situation about five miles from Savannah, was visited by Governor Rutledge and other gentlemen of South Carolina and Georgia. The Governor having perceived some movements in camp indicative of a retrograde motion, told the Count that his own honor and the honor of France were concerned in his remaining and taking the city. The Count very mildly replied, "Gentlemen, if my honor is to be lost by not taking the city, it is lost already; but I deem my honor to consist in the honor of my country, and that honor is my country's interest!" The time of operation in the West Indies was arrived, and the Count re-embarked his troops.

Now, sir, is it not our duty to consult our country's interest, before we take this rash step, which we cannot recall? Peace is the interest of all republics, and war their destruction; it loads and fetters them with debt, and entangles not only the present race, but posterity. Peace, sir, has been the ruling policy of the United States throughout all her career. If we show the citizens that we are not willing to go to war, and load them with taxes, they will all be with us, when a necessity for war arrives. What, sir, was the policy of America, from the commencement of the Revolution? At that day, did we hastily go to war? No; we tried every peaceable means to avoid it, and those means induced a unanimity in the people.

At the commencement many States were exceedingly divided, in some a majority were against us; yet, seeing the moderation and justice of our measures, and the rashness and tyranny of the British cabinet, they came over to our side, and became the most zealous among us. At the present moment, sir, the people are averse to war, they are satisfied with the steps of the Executive, they wish negotiation. If you adopt these resolutions, they will be still divided; if you negotiate, and fail in that negotiation—if you cannot obtain a redress of the injury which they feel as well as you, they will go all lengths with you, and be prepared for any event; you will have this advantage, you will be unanimous, and America united is a match for the world. In such a case, sir, every man will be anxious to march, he would go himself if called on, and whether the sluggish Spaniard or the French grenadier commands New Orleans, it must fall; they will not be able to resist the brave and numerous hosts of our Western brethren, who are so much interested in the injury complained of. He was himself of opinion that New Orleans must belong to the United States; it must come to us in the course of human events, although not at the present day; for he did not wish to use force to obtain it, if we could get a redress of injury; yet it will naturally fall into our hands by gradual but inevitable causes, as sure and certain as manufactures arise from increased population and the plentiful products of agriculture and commerce. But let it be noticed, that if New Orleans by a refusal of justice falls into our hands by force, the Floridas, as sure as fate, fall with it. Good faith forbids encroachment on a pacific ally; but if hostility shows itself against us, interest demands it; Georgia in such case could not do without it. God and nature have destined New Orleans and the Floridas to belong to this great and rising empire. As natural bounds to the South, are the Atlantic, the Gulf of Mexico, and the Mississippi, and the world at some future day cannot hold them from us.

**THURSDAY, February 24.**

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***Mississippi Question.***

Agreeably to the order of the day, the Senate resumed the consideration of the resolutions respecting the indisputable right of the United States to the free navigation of the Mississippi, together with the proposed amendments thereto.

Mr. WELLS, of Delaware, said,—Gentlemen have persuaded themselves that the conduct of the Intendant is not authorized by the Spanish or French Government; but what reason have they assigned us in support of this opinion? They tell us of the friendly assurances received from the Minister of His Catholic Majesty resident near our Government; and they place considerable stress upon the circumstance of the Governor of New Orleans disapproving of what the Intendant has done. I will not stop to speak of the imprudence of reposing themselves upon the assurances of a Minister, perhaps expressly instructed to mislead them. But why have they trusted to the imaginary collision of sentiment between the Governor and Intendant of New Orleans? Do not gentlemen know that our Government is in possession of testimony, demonstrating beyond all kind of doubt, that this is not the fact? Have they not seen the letter of the Governor of New Orleans to the Governor of the Mississippi Territory? In this letter I learn that the Governor comes out and acknowledges his co-operation with the Intendant, justifies the breach of the treaty, and declares that these instruments cease their binding force the moment it suits the interest of either party to break through them. Alas! the history of the world furnishes us too many evidences of this melancholy truth. But this is the first time that any nation has had the hardihood to avow it. No, sir, even Carthage herself, who became proverbial for her disregard of

treaties, never attained to a point so profligate. If I am incorrect in my statement, honorable gentlemen, who have easier access to the sources of official information than is permitted to us, will set me right. Why has this document been so sedulously kept from the public eye? Why it should be even now so carefully locked up, is a mystery not for me to unravel.

I see no other course for us to pursue than that pointed out by the resolutions. Our interests, our honor, and our safety, require it to be adopted. I am aware that the alarm of war will be rung through the country. I know full well the pains that will be taken to impress an opinion upon our fellow-citizens that we are the friends of war. This we cannot help: the danger with which our country is threatened, will not permit us to shrink from the discharge of our duty, let the consequences to ourselves be what they may. Let me ask you with my honorable friend from New Jersey, (Mr. DAYTON,) what stronger evidence can we give you of the sincerity of our intentions than the resolutions themselves? So far from cramping, or diminishing the power of gentlemen opposed to us, in a crisis like the present, we only offer to strengthen their own hands. Had the advice of an honorable gentleman near me (Mr. MORRIS) been listened to, when you were disbanding your army, this crisis would not have happened. Had you then posted at the Natchez, as he recommended, a thousand soldiers, the navigation of the Mississippi would not now have been interrupted. He foretold you what would happen, and his prediction has been literally fulfilled.

There is but one fault I find with these resolutions, which is, they do not go far enough. If I could obtain a second, I would move an amendment explicitly authorizing the taking possession of both the Floridas as well as the island of New Orleans. In one respect I entirely accord with the honorable gentleman from Georgia, (Mr. JACKSON,) and I admire the manly and decisive tone in which he has spoken upon this subject. We both agree that the Floridas must be attached to the United States; but we differ in point of time. The violent aggression committed upon our rights, and the extent of the danger with which we are threatened, in my humble opinion, would amply justify our taking possession of them immediately. Look at the relative situation of Georgia, the Mississippi Territory, and the Floridas, and it will require very little of the spirit of prophecy to foretell that we shall, ere long, be compelled to possess ourselves of them in our own defence.

Mr. GOUVERNEUR MORRIS.—Mr. President, my object is peace. I could assign many reasons to show that this declaration is sincere. But can it be necessary to give this Senate any other assurance than my word? Notwithstanding the acerbity of temper which results from party strife, gentlemen will believe me on my word. I will not pretend, like my honorable colleague, (Mr. CLINTON,) to describe to you the waste, the ravages, and the horrors of war. I have not the same harmonious periods, nor the same musical tones; neither shall I boast of Christian charity, nor attempt to display that ingenuous glow of benevolence so decorous to the cheek of youth, which gave a vivid tint to every sentence he uttered; and was, if possible, as impressive even as his eloquence. But, though we possess not the same pomp of words, our hearts are not insensible to the woes of humanity. We can feel for the misery of plundered towns, the conflagration of defenceless villages, and the devastation of cultured fields. Turning from these features of general distress, we can enter the abodes of private affliction, and behold the widow weeping, as she traces, in the pledges of conjugal affection, the resemblance of him whom she has lost for ever. We see the aged matron bending over the ashes of her son. He was her darling; for he was generous and brave, and therefore his spirit led him to the field in defence of his country. We can observe another oppressed with unutterable anguish: condemned to conceal her affection; forced to hide that passion which is at once the torment and delight of life; she learns that those eyes which beamed with sentiment, are closed in death; and his lip, the ruby harbinger of joy, lies pale and cold, the miserable appendage of a mangled corpse. Hard, hard indeed, must be that heart which can be insensible to scenes like these, and bold the man who dare present to the Almighty Father a conscience crimsoned with the blood of his children.

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Yes, sir, we wish for peace; but how is that blessing to be preserved? I shall here repeat a sentiment I have often had occasion to express. In my opinion, there is nothing worth fighting for, but national honor; for in the national honor is involved the national independence. I know that a State may find itself in such unpropitious circumstances, that prudence may force a wise government to conceal the sense of indignity. But the insult should be engraven on tablets of brass, with a pencil of steel. And when that time and chance, which happen to all, shall bring forward the favorable moment, then let the avenging arm strike him. It is by avowing and maintaining this stern principle of honor, that peace can be preserved. But let it not be supposed that any thing I say has the slightest allusion to the injuries sustained from France, while suffering in the pangs of her Revolution. As soon should I upbraid a sick man for what he might have done in the paroxysms of disease. Nor is this a new sentiment; it was felt and avowed at the time when these wrongs were heaped on us, and I appeal for the proof to the files of your Secretary of State. The destinies of France were then in the hands of monsters. By the decree of Heaven she was broken on the wheel, in the face of the world, to warn mankind of her folly and madness. But these scenes have passed away. On the throne of the Bourbons is now seated the first of the Gallic Cæsars. At the head of that gallant nation is the great—the greatest—man of the present age. It becomes us well to consider his situation. The things he has achieved, compel him to the achievement of things more great. In his vast career, we must soon become objects to command attention. We too, in our turn, must contend or submit. By submission we may indeed have peace, alike precarious and ignominious. But is this the peace which we ought to seek? Will this satisfy the just expectation of our country? No. Let us have peace permanent, secure, and, if I may use the term, independent. Peace which depends, not on the pity of others, but on our own force. Let us have the only peace worth having, a peace consistent with honor.



Before I consider the existing state of things, let me notice what gentlemen have said in relation to it. The honorable member from Kentucky has told us, that indeed there is a right arrested, but whether by authority or not is equivocal. He says the representative of Spain verily believes it to be an unauthorized act. My honorable colleague informs us there has been a clashing between the Governor and Intendant. He says we are told by the Spanish Minister it was unauthorized. Notwithstanding these assurances, however, my honorable colleague has, it seems, some doubts; but nevertheless he presumes innocence, for my colleague is charitable. The honorable member from Maryland goes further. He tells us the Minister of Spain says, the Intendant had no such authority, and the Minister of France, too, says there is no such authority. Sir, I have all possible respect for those gentlemen, and every proper confidence in what they may think proper to communicate. I believe the Spanish Minister has the best imaginable disposition to preserve peace; being indeed the express purpose for which he was sent among us. I believe it to be an object near to his heart, and which has a strong hold upon his affections. I respect the warmth and benevolence of his feelings, but he must pardon me that I am deficient in courtly compliment; I am a republican, and cannot commit the interests of my country to the goodness of his heart.

What is the state of things? There has been a cession of the island of New Orleans and of Louisiana to France. Whether the Floridas have also been ceded is not yet certain. It has been said, as from authority, and I think it probable. Now, sir, let us note the time and the manner of this cession. It was at or immediately after the treaty of Lunéville, at the first moment when France could take up a distant object of attention. But had Spain a right to make this cession without our consent? Gentlemen have taken it for granted that she had. But I deny the position. No nation has a right to give to another a dangerous neighbor without her consent. This is not like the case of private citizens, for there, when a man is injured, he can resort to the tribunals for redress; and yet, even there, to dispose of property to one who is a bad neighbor is always considered as an act of unkindness. But as between nations, who can redress themselves only by war, such transfer is in itself an aggression. He who renders me insecure; he who hazards my peace, and exposes me to imminent danger, commits an act of hostility against me, and gives me the rights consequent on that act. Suppose Great Britain should give to Algiers one of the Bahamas, and contribute thereby to establish a nest of pirates near your coasts, would you not consider it as an aggression? Suppose, during the late war, you had conveyed to France a tract of land along Hudson's River, and the northern route by the Lakes into Canada, would not Britain have considered and treated it as an act of direct hostility? It is among the first limitations to the exercise of the rights of property, that we must so use our own as not to injure another; and it is under the immediate sense of this restriction that nations are bound to act toward each other.

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But it is not this transfer alone. There are circumstances both in the time and in the manner of it which deserve attention. A gentleman from Maryland (Mr. WRIGHT) has told you, that all treaties ought to be published and proclaimed for the information of other nations. I ask, was this a public treaty? No. Was official notice of it given to the Government of this country? Was it announced to the President of the United States, in the usual forms of civility between nations who duly respect each other? It was not. Let gentlemen contradict me if they can. They will say perhaps that it was the omission only of a vain and idle ceremony. Ignorance may indeed pretend that such communication is an empty compliment, which, established without use, may be omitted without offence. But this is not so. If these be ceremonies, they are not vain, but of serious import, and are founded on strong reason. He who means me well acts without disguise. Had this transaction been intended fairly, it would have been told frankly. But it was secret because it was hostile. The First Consul, in the moment of terminating his differences with you, sought the means of future influence and control. He found and secured a pivot for that immense lever, by which, with potent arm, he means to subvert your civil and political institutions. Thus, the beginning was made in deep hostility. Conceived in such principles, it presaged no good. Its bodings were evil, and evil have been its fruits. We heard of it during the last session of Congress, but to this hour we have not heard of any formal and regular communication from those by whom it was made. Has the King of Spain, has the First Consul of France, no means of making such communication to the President of the United States? Yes, sir, we have a Minister in Spain; we have a Minister in France. Nothing was easier, and yet nothing has been done. Our First Magistrate has been treated with contempt; and through him our country has been insulted.

With that meek and peaceful spirit now so strongly recommended, we submitted to this insult, and what followed? That which might have been expected; a violation of our treaty. An open and direct violation by a public officer of the Spanish Government. This is not the case cited from one of the books. It is not a wrong done by a private citizen, which might, for that reason, be of doubtful nature. No; it is by a public officer,—that officer, in whose particular department it was to cause the faithful observance of the treaty which he has violated. We are told indeed that there was a clashing of opinion between the Governor and the Intendant. But what have we to do with their domestic broils? The injury is done, we feel it. Let the fault be whose it may, the suffering is ours. But, say gentlemen, the Spanish Minister has interfered to correct this irregular procedure. Sir, if the Intendant was amenable to the Minister, why did he not inform him of the step he was about to take, that the President of the United States might seasonably have been apprised of his intention, and given the proper notice to our fellow-citizens? Why has he first learnt this offensive act from those who suffer by it? Why is he thus held up to contempt and derision? If the Intendant is to be controlled by the Minister, would he have taken a step so important without his advice? Common sense will say no. But, the bitter cup of humiliation was not yet full. Smarting under the lash of the Intendant, the Minister soothes you with assurances, and sends advice-boats to announce your forbearance. But while they are on their way, new injury and new insult

are added. The Intendant, as if determined to try the extent of your meekness, forbids to your citizens all communication with those who inhabit the shores of the Mississippi. Though they should be starving, the Spaniard is made criminal who should give them food. Fortunately, the waters of the river are potable, or else we should be precluded from the common benefits of nature, the common bounty of heaven. What then, I ask, is the amount of this savage conduct? Sir, it is war. Open and direct war. And yet gentlemen recommend peace, and forbid us to take up the gauntlet of defiance. Will gentlemen sit here and shut their eyes to the state and condition of their country? I shall not reply to what has been said respecting depredations on commerce, but confine myself to objects of which there can be no shadow of doubt. Here is a vast country given away, and not without danger to us. Has a nation a right to put these States in a dangerous situation? No, sir. And yet it has been done, not only without our consent previous to the grant, but without observing the common forms of civility after it was made. Is that wonderful man who presides over the destinies of France, ignorant or unmindful of these forms? See what was done the other day. He directed his Minister to communicate to the Elector of Bavaria, his intended movements in Switzerland, and their object. He knew the Elector had a right to expect that information, although the greater part of Swabia lies between his dominions and Switzerland. And this right is founded on the broad principles already mentioned.

Having thus considered the effect of this cession upon the United States, in a general point of view, let us now examine it more particularly, as it regards the greater divisions of our country, the Western, the Southern, the Middle, and the Eastern States. I fear, sir, I shall detain you longer than I intended, certainly longer than the light of day will last, notwithstanding my effort to comprise what I have to say in the smallest compass. As to the Western States, the effects will be remote and immediate. Those more remote may be examined under the twofold aspect of peace and war. In peace they will suffer the diminution of price for their produce. The advantage of supplying the French, Dutch, and Spanish colonies, may at first sight lead to a different opinion; but when the port of New Orleans is shut to all but French ships, there will no longer be that competition which now exists, and which always results in the highest price that commodities can bear. The French merchants have neither the large capital, nor have they the steady temper and persevering industry which foster commerce. Their invariable object in trade, is to acquire sudden wealth by large profit; and if that cannot be done, they abandon the pursuit for some new project. Certain of the market, and certain of the increasing supply, they will prescribe the price, both to those who cultivate, and to those who consume. Such will be the effect in peace.

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In a war with Great Britain, the attention of her fleets to cut off supplies from her enemies, must necessarily affect the price of produce in a still greater degree; and in a war with France it will bear no price at all, until New Orleans shall be wrested from their grasp. Add to this the danger and the devastation from the troops of that country, aided by innumerable hosts of savages from the Western wilds. Such being the evident effects to be produced in times not far remote, the present evil follows from the anticipation of them. The price of land must be reduced, from the certainty that its produce will become less valuable. The flood of emigration to those fertile regions must cease to flow. The debts incurred in the hope of advantageous sales, must remain unpaid. The distress of the debtor must then recoil on his creditor, and, from the common relations of society, become general.

What will be the effect on the Southern States? Georgia, Carolina, and the Mississippi Territory are exposed to invasion from the Floridas and New Orleans. There are circumstances in that portion of America which render the invasion easy, and the defence difficult. Pensacola, though the climate be warm, is among the healthiest spots on earth. Not only a large garrison, but an army may remain there without hazard. At Pensacola and St. Augustine, forces may be assembled to operate in that season of the year, when the morasses which separate them from our southern frontier no longer breathe pestilence. By what are those armies to be opposed? Will you call the militia from the North to assist their Southern brethren? They are too remote. Will you secure their seasonable aid, bring them early to the fields they are ordered to defend? They must perish. The climate, more fatal than the sword, will destroy them before they see their foe. The country adjoining to our Southern frontier is now in possession of the most numerous tribes of savages we are acquainted with. The access to it from New Orleans and the Floridas is easy and immediate. The toys and gewgaws manufactured in France, will be scattered in abundance, to win their affections, and seduce them from their present connection. The talents of the French to gain the good will of the savages is well known, and the disposition of those uncultured men for war, is equally notorious. Here then is a powerful instrument of destruction, which may be used against you with ruinous effect. Besides, what is the population of the Southern States? Do you not tremble when you look at it? Have we not within these few days passed a law to prevent the importation of certain dangerous characters? What will hinder them from arriving in the Floridas, and what can guard the approach from thence to our Southern frontier? These pernicious emissaries may stimulate with a prospect of freedom the miserable men who now toil without hope. They may excite them to imitate a fatal example, and to act over those scenes which fill our minds with horror. When the train shall be laid; when the conspiracy shall be ripe; when the armies of France shall reach your frontier, the firing of the first musket will be a signal for general carnage and conflagration. If you will not see your danger now, the time must soon arrive when you shall feel it. The Southern States being exposed to such imminent danger, their Representatives may be made to know, that a vote given in Congress shall realize the worst apprehensions. You will then feel their danger even on this floor.

Let us now consider the consequence of the cession we complain of, to other nations, and this we may do generally, and then more especially as to those who have a direct and immediate interest

in the transaction. In a general view, the first prominent feature is the colossal power of France. Dangerous to Europe and to the world, what will be the effect of a great increase of that power? Look at Europe! One half of it is blotted from the list of empire. Austria, Russia, Prussia, and Britain, are the only powers remaining, except Sweden and Denmark, and they are paralyzed. Where is Italy, Switzerland, Flanders, and all Germany west of the Rhine? Gone; swallowed up in the empire of the Gauls. Holland, Spain, Portugal, reduced to a state of submission and dependence. What is the situation of the powers that remain? Austria is cut off from Italy, the great object of her ambition for more than three centuries; long the rival of France, long balancing with the Bourbons the fate of Europe, she must now submit, and tacitly acknowledge to the world the superiority of her foe, and her own humiliation. Prussia, under the auspices of the Great Frederick, was at the head of a Germanic league to balance the imperial power. Though united with Austria for a moment in the hollow league of the coalition, she has, like Austria, been actuated by a blind jealousy, and favoring the operations of France for the ruin of her rival, expected to share largely in the general spoil. In this fond hope she is disappointed; she now sees the power of France at her door. There is not a fortress from the Rhine to the Baltic, except Magdeburgh, which the First Consul may leave on his left. The fertile plains near Leipsic contain the magazines for his armies when he shall think proper to march to Berlin. Westphalia and Lower Saxony are open on the side of Flanders and Holland. The Maine presents him a military road to the borders of Bohemia. By the Necker he approaches Ulm, and establishes himself on the Danube.<sup>[71]</sup> These rivers enable him to take the vast resources of his wide domain to the point where he may wish to employ them. Menacing at pleasure his neighbors, he is himself secured by a line of fortresses along his whole frontier. Switzerland, which was the only feeble point of his defence, and which separated his Gallic and Italian dominions, has lately been subjected. The voice you now hear, warned the Swiss of their fate more than eight years ago. The idea seemed then extravagant; but realized, it appears but as a necessary incident. Russia is deprived of her influence in Germany, and thereby of a principal instrument by which her policy might operate on the great powers of the South. The Germanic body is indeed in the hand of the First Consul. Three new Electors along the Rhine are under the mouths of his cannon. They dare not speak. Speak! None dare speak. They dare not *think* any thing inconsistent with his wishes. Even at their courtly feasts they sit like Damocles, destruction suspended over their heads by a single hair. Would you know the sentiment of England? Look at the debates. In the two Houses of Parliament they speak their fears. Such being the general sentiment of Europe, can it be supposed that they will view without anxiety a new extension of that power and dominion, the object of their hatred and apprehension?

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Will it be said that there is a security to the freedom of mankind from the moderation with which this enormous power is to be exercised? Vain delusion! This power is not the result of accident. At the moment when France dethroned her sovereign, it was easy to foresee that a contest must ensue in which her existence would be staked against the empire of the world. If not conquered by surrounding princes, (and the hope of such conquest, unless by the aid of her own citizens, was idle,) her numerous armies acquiring discipline must eventually conquer. She had the advantages of situation, and those which result from union, opposed to councils uncertain and selfish. It was easy also to foresee that, in the same progress of events, some fortunate soldier would seat himself on the vacant throne; for the idea of a French Republic was always a ridiculous chimera. Buonaparte has placed himself at the head of that nation by deeds which cast a lustre on his name. In his splendid career he must proceed. When he ceases to act he will cease to reign. Whenever in any plan he fails, that moment he falls. He is condemned to magnificence. To him are forbidden the harmonies and the charities of social life. He commands a noble and gallant nation, passionately fond of glory. That nation stimulates him to glorious enterprise, and, because they are generous and brave, they ensure his success. Thus the same principle presents at once the object and the means. Impelled by imperious circumstances, he rules in Europe, and he will rule here also, unless by vigorous exertion you set a bound to his power.

I have trespassed on your patience more than I wished, although, from the lateness of the hour, much has been omitted of what I ought to have said. I have endeavored to show that, under the existing circumstances, we are now actually at war, and have no choice but manly resistance or vile submission. That the possession of this country by France is dangerous to other nations, but fatal to us. That it forms a natural and necessary part of our empire; that, to use the strong language of the gentleman near me, it is joined to us by the hand of the Almighty, and that we have no hope of obtaining it by treaty. If, indeed, there be any such hope, it must be by adopting the resolutions offered by my honorable friend. Sir, I wish for peace—I wish the negotiation may succeed, and therefore I strongly urge you to adopt those resolutions. But though you should adopt them, they alone will not ensure success. I have no hesitation in saying that you ought to have taken possession of New Orleans and the Floridas the instant your treaty was violated. You ought to do it now. Your rights are invaded—confidence in negotiation is vain; there is therefore no alternative but force. You are exposed to imminent present danger. You have the prospect of great future advantage. You are justified by the clearest principles of right. You are urged by the strongest motives of policy. You are commanded by every sentiment of national dignity. Look at the conduct of America in her infant years, when there was no actual invasion of right, but only a claim to invade. She resisted the claim; she spurned the insult. Did we then hesitate? Did we then wait for foreign alliance? No; animated with the spirit, warmed with the soul of freedom, we threw our oaths of allegiance in the face of our sovereign, and committed our fortunes and our fate to the God of battles. We then were subjects. We had not then attained to the dignity of an independent Republic. We then had no rank among the nations of the earth. But we had the spirit which deserved that elevated station. And now that we have gained it, shall we fall from our

honor?

Sir, I repeat to you that I wish for peace—real, lasting, honorable peace. To obtain and secure this blessing, let us by a bold and decisive conduct convince the Powers of Europe that we are determined to defend our rights; that we will not submit to insult; that we will not bear degradation. This is the conduct which becomes a generous people. This conduct will command the respect of the world. Nay, sir, it may rouse all Europe to a proper sense of their situation. They see that the balance of power on which their liberties depend, is, if not destroyed, in extreme danger. They know that the dominion of France has been extended by the sword over millions who groan in the servitude of their new masters. These unwilling subjects are ripe for revolt. The empire of the Gauls is not like that of Rome, secured by political institutions. It may yet be broken. But whatever may be the conduct of others, let us act as becomes ourselves. I cannot believe with my honorable colleague, that three-fourths of America are opposed to vigorous measures. I cannot believe that they will meanly refuse to pay the sums needful to vindicate their honor and support their independence. Sir, this is a libel on the people of America. They will disdain submission to the proudest sovereign on earth. They have not lost the spirit of seventy-six. But, sir, if they are so base as to barter their rights for gold, if they are so vile that they will not defend their honor, they are unworthy of the rank they enjoy, and it is no matter how soon they are parcelled out among better masters.

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## **FRIDAY, February 25.**

### ***Mississippi Question.***

The Senate resumed the consideration of the resolutions respecting the indisputable right of the United States to the free navigation of the Mississippi, together with the proposed amendment thereto.

Mr. ANDERSON (of Tennessee) said he rose with much diffidence, after the very able discussion which the subject had already undergone; after so many men distinguished among the first in our country had treated it with so much ability, he could not expect to furnish many new facts or observations on the subject. But coming from that part of the country which is particularly interested in the discussion, he felt himself particularly bound to offer a few remarks, which some erroneous statements that had fallen in debate, from the gentleman from Delaware, (Mr. WHITE,) particularly called for. He would, while he was up, endeavor to add a few observations on the resolutions.

The first of the resolutions appeared to him to be introduced merely with a view to involve the members who were opposed to hostile measures in a dilemma. It was the assertion of a truth which no one would deny, but it was connected with other resolutions or assertions, which must from propriety bring the whole under a negative vote. Taking the naked proposition that we have a right to the place of deposit, we all agree; that it has been suspended, we are equally agreed; but there we stop; by prefacing their resolutions with these truths, they expect either to induce us to vote for other things repugnant to our judgment, or afford room for the imputation of wrong motives and clamor abroad. But we are not to be led astray in this way, nor are the people of this country to be so deceived. On the first organization of the Government, the most earnest attention was directed to that river; and it is now as much an object of the care of Government as at any period since we have been an independent people. Gentlemen have not, therefore, represented the matter with that candor which the seriousness of the subject demanded. The navigation of the Mississippi has not been infringed on the present occasion, though the arguments of all, and the assertions of some, went to the extreme on that point. The river, he repeated, was and continues to be open, and he could not discover the utility of our declaring our right to the free navigation when we are in full unmolested possession of the right. He could indeed discover something beside utility; he could see a design nowise founded. The gentlemen expected with them the votes of the Western members; they expected to play upon our passions, and to place us between the danger of unpopularity and the sense of personal feeling, in a case of a critical nature. But gentlemen would find themselves mistaken to the utmost; though he felt himself, in common with other Western members, responsible to his constituents, yet he would on all occasions where the sense of right impressed itself strongly on him, risk popularity to do right. On this occasion he saw no danger of his popularity, because, although he was aware that the people whom he represented were dissatisfied, they respected their Government and themselves too much to countenance any means that were not honorable and just, to obtain the deposit right.

The resolutions called upon us to declare the deprivation of the right of deposit to be hostile to our honor and interests. On this there were a variety of opinions; and it appears to be agreed (for it was not contradicted by any) that the act of an individual unauthorized cannot be either a cause of war, or the act of the government of which he is an officer. No gentleman has positively declared the act to be authorized by Spain. We have the best evidence that the case will admit of, that it has not been authorized. As the act of an individual, therefore, it cannot affect the honor of this country. That her interests are affected is agreed on all hands; but then the due course of proceeding has been adopted, and redress is to be expected. If it should be denied us, we have our remedy, and it is then that it will become a point of honor. But now, as had been well said by his friend from Georgia, (Mr. JACKSON,) if we were to rashly declare the act of the individual contrary to our national honor, we could not retrograde; and if Spain should not do us justice, he trusted that we should then take our strong ground, and not give way a step. This would be the

effect. Gentlemen do not know the American character—they underrate it: there is not that levity in it which gentlemen suppose, capable of being lightly led astray. The character of America is fixed, and when real necessity calls for their exertions, the people will require no artificial excitement.

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From time to time, he had heard in that House and in other places, the most wanton and cruel aspersions cast upon the people of the Western country. He knew not how gentlemen could reconcile their pretensions of regard for the Western people with the odious imputations which were constantly cast upon their attachment. The whole of the opposition appeared to concur in their illiberality towards the Western people, at the very moment they were professing so much zeal for their good. The late President of the United States had in the most unwarrantable manner told him, that the Western people were ready to hold out their hands to the first foreigner that should offer them an alliance; the same sentiment is echoed here, only in different terms. But such vile imputations attach not to the Western people, but to those who employed them. The Western people are Americans, who wasted the spring-tide and summer of their days in the cause of their country; men who, having spent their patrimony in establishing their country's independence, travelled to the wilderness, to seek a homestead for themselves and children. Was it honorable, was it consistent with those labored efforts for their good, which we are told actuate gentlemen, to calumniate them in so unworthy a fashion? Gentlemen appear by their gestures to deny that they have been guilty of this calumny. But my charge against them is not of that evasive or double character which they deal in; the words they have used I have taken down—they are; "The French would draw the Western people into an alliance," "The Western people would be influenced by the insidious emissaries of France," "Corruption would find its way among them, and be transferred even to that floor." Is this not calumny of the darkest hue? Is this the way in which six hundred thousand men are to be stigmatized? Men, a greater proportion of whom are soldiers who fought for the independence of America, than ever was to be found in the whole State (Delaware) to which the gentleman belongs.

During twelve years, eight of which one of the first men the world ever saw, or perhaps ever will see, presided over our affairs, the policy of pacific negotiation prevailed in our councils; a policy somewhat more hostile in its aspect was attempted by his successor, but still negotiation succeeded negotiation, and success attended perseverance. In the early stages of our existence, before we were yet a nation, it is indeed true that we drank of the cup of humiliation, even to the dregs; it was the natural effect of our dependent situation; of the prejudices that bound us, and from which great violence was necessary, and was employed to detach us. Such humiliation would not befit us now; no motives exist to demand or justify it: we were then a part of another nation, and connected with another Government; we began by petition in the terms of abjectness and humility, which are incidental to subjects of monarchs; which are always necessary, in order to conceal the spirit and the presumption, of which monarchs are always jealous in their subjects; but abject as we appeared, the very temper and phrase of humility deceived our oppressor into a belief that we were too lowly to entertain the manly temper of resistance against oppression. Yet our precursory and reiterated humility did not unnerve our arms nor subdue our minds, when it became necessary to fling off the trammels of oppression. The result, we now enjoy. When that very power from which we had detached ourselves, refused to carry her treaty into execution, did we then go to war? She held several of our fortresses; we were entitled by every right of nature, and the usage of nations, to seize upon them; not like the right of deposit, a privilege enjoyed on the territory of another, but fortresses held, and in military array on our own territory. Did we then make war? No, we negotiated; and when another power subsequently attacked us, we pursued the same course with the like success. The gentleman (Mr. Ross) has told us that when President WASHINGTON came into office, he would not have negotiated for the Mississippi, had he not found the negotiation already begun. The gentleman has not told us upon what authority he states this, or how he came to possess the knowledge of a fact of which all others are ignorant; a fact, too, contradictory of his practice through life, and of the principles of that legacy which he left to his country.

Mr. S. T. MASON, said, that if he were to consult the state of his health, he should not trouble the Senate with any remarks on the resolutions before them. But he had heard in the course of debate, certain observations, such strange and paradoxical arguments; insinuations and assertions of such a nature as ought not to be passed unnoticed. Doubtful whether his strength would sustain him through the whole scope which in better health he should take, he would endeavor to limit his arguments to a few of the most prominent particulars, which excited his attention, and to the delivery of his reasons for preferring the substitute propositions of his friend from Kentucky, (Mr. BRECKENRIDGE,) to the original resolutions of the gentleman from Pennsylvania.

He had heard, in the debate, many professions of confidence in the Executive. He was very glad to hear such unusual expressions from that quarter. However, it was entitled to its due weight—what that was he would not inquire; but this he would say, that this unexpected ebullition of confidence went very much farther than he should be disposed to carry his confidence in any man or any President whatever. Gentlemen tell us that they are willing to intrust to the Executive the power of going to war, or not, at his discretion. Wonderful indeed is this sudden disposition to confidence? Why do not gentlemen give away that which they have some authority or right to bestow? Who gave them the power to vest in any other authority than in Congress the right of declaring war? The framers of this constitution had too much experience to intrust such a power to any individual; they early and wisely foresaw, that though there might be men too virtuous to abuse such a power, that it ought not to be intrusted to any; and nugatory would be the authority of the Senate, if we could assume the right of transferring our constitutional functions to any man

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or set of men. It was a stretch of confidence which he would not trust to any President that ever lived, or that will live. He could not as one, without treason to the constitution, consent ever to relinquish the right of declaring war to any man, or men, beside Congress.

We are told that negotiation is not the course which is proper for us to pursue. But to this he should reply, that such was the usage of all civilized nations; and, however gentlemen might attempt to whittle away the strong ground taken by his friend from New York, he had shown, in a manner not to be shaken, that negotiation before a resort to the last scourge of nations, is the course most consistent with good policy, as well as with universal practice. The gentleman from Pennsylvania had indeed told us that Great Britain had departed from that practice; unfortunately for Great Britain and the gentleman's argument, he told us, at the same time, that she had sustained a most serious injury by her injustice and precipitation. She went to war to seek retribution, and after fighting a while, she left off, and forgot to ask the retribution for which she went to war! And this is the example held up for our imitation; because Great Britain violated the law of nations, we are called upon to do so too! We are told also that Great Britain commenced war during our Revolution, against the Dutch, without any previous notification; that she did the same in the late war with France, and in both cases seized on the ships in her harbors; that is, like a professional bully, she struck first, and then told them she would fight them—and this is the gracious example held up to us.

The merits of the different propositions consisted in this, that by the amendments we propose to seek the recourse of pacific nations—to follow up our own uniform practice; we pursue, in fact, the ordinary and rational course. The first resolutions go at once to the point of war. This was openly and fairly acknowledged by the gentleman from New York (Mr. G. MORRIS.) The gentleman from Pennsylvania, (Mr. Ross,) indeed, told us that it is not war—it was only going and taking peaceable possession of New Orleans! He did not before think the gentleman felt so little respect for the Senate, or estimated their understandings so much inferior to his own, as to call such a measure an act of peace! How did the gentleman mean to go, and how take peaceable possession? Would he march at the head of the *posse comitatus*? No! he would march at the head of fifty thousand militia, and he would send forth the whole naval and regular force, armed and provided with military stores. He would enter their island, set fire to their warehouses, and bombard their city, desolate their farms and plantations, and having swept all their habitations away, after wading through streams of blood, he would tell those who had escaped destruction, we do not come here to make war on you—we are a very moderate, tender-hearted kind of neighbors, and are come here barely to take peaceable possession of your territory! Why, sir, this is too naked not to be an insult to the understanding of a child!

But the gentleman from New York (Mr. MORRIS) did not trifle with the Senate in such a style; he threw off the mask at once, and in a downright manly way, fairly told us that he liked war—that it was his favorite mode of negotiating between nations; that war gave dignity to the species—that it drew forth the most noble energies of humanity! That gentleman scorned to tell us that he wished to take peaceable possession. No! He could not snivel; his vast genius spurned huckstering; his mighty soul would not bear to be locked up in a petty warehouse at New Orleans; he was for war, terrible, glorious havoc! He tells you plainly, that you are not only to recover your rights, but, you must remove your neighbors from their possessions, and repel those to whom they may transfer the soil; that Buonaparte's ambition is insatiable; that he will throw in colonies of Frenchmen, who will settle on your frontier for thousands of miles round about, (when he comes there;) and he does not forget to tell you of the imminent dangers which threaten our good old friends the English. He tells you that New Orleans is the lock and you must seize upon the key, and shut the door against this terrible Buonaparte, or he will come with his legions, and, as Gulliver served the Lilliputians, wash you off the map. Not content, in his great care for your honor and glory, as a statesman and a warrior, he turns prophet to oblige you—your safety in the present year or the next, does not satisfy him—his vast mind, untrammelled by the ordinary progressions of chronology, looks over ages to come with a faculty bordering on omniscience, and conjures us to come forward and regulate the decrees of Providence at ten thousand years distance.

We have been told that Spain had no right to cede Louisiana to France; that she had ceded to us the privilege of deposit, and had therefore no right to cede her territory without our consent! Are gentlemen disposed to wage war in support of this principle? Because she has given us a little privilege—a mere indulgence on her territory—is she thereby constrained from doing any thing for ever with her immense possessions? No doubt, if the gentleman (Mr. MORRIS) were to be the negotiator on this occasion, he would say: "You mean to cede New Orleans; no, gentlemen, I beg your pardon, you cannot cede that, for we want it ourselves; and as to the Floridas, it would be very indiscreet to cede that, as, in all human probability, we shall want that also in less than five hundred years from this day; and then, as to Louisiana, you surely could not think of that, for in something less than a thousand years, in the natural order of things, our population will progress towards that place also."

If Spain has ceded those countries to France, the cession has been made with all the encumbrances and obligations to which it is subject by previous compact with us. Whether Buonaparte will execute these obligations with good faith, he could not say; but to say that Spain has no right to cede, is a bold assertion indeed. The people of America will not go along with such doctrines, for they lead to ruin alone. We are also told, that the power of the Chief Consul is so great, that he puts up and pulls down all the nations of the Old World at discretion, and that he can do so with us. Yet we are told by the wonderful statesman, who gives us this awful information, that we must go to war with this maker and destroyer of Governments. If, after the

unceasing pursuit of empire and conquest, which is thus presented to us, we take possession of his territory, from the gentleman's own declarations, what are we to expect, only that this wonderful man, who never abandons an object—who thinks his own and the nation's honor pledged to go through whatever he undertakes—will next attack us? Does the gentleman think that this terrible picture, which his warm imagination has drawn, is a conclusive argument for proceeding to that war which he recommends?

The Senate, Mr. PRESIDENT, at this moment, presents a very extraordinary aspect; and by those not acquainted with our political affairs, it would appear a political phenomenon. Here we see a number of people from the Eastern States and the seaboard, filled with the most extreme solicitude for the interest and rights of the Western and inland States; while the representatives of the Western people themselves appear to know nothing of this great danger, and to feel a full confidence in their Government. The former declaring that the Western people are all ready for revolt and open to seduction; the latter ignorant of any such disposition, and indignant at the disgrace which is thrown on their character. In their great loving-kindness for the Western people, those new friends of theirs tell them that they are a simple people, who do not know what is good for them, and that they will kindly undertake to do this for them. From the contiguous States of South Carolina, Georgia, Tennessee, and Kentucky, (those States from which the gentleman from Pennsylvania, by his resolutions, proposes to draw the militia,) every member of this House is opposed to war; but from the East, (and one can scarcely refrain from laughing, to hear of the all-important representatives of the State of Delaware in particular,) such is the passion for the wonderful, or the absurd, there prevails the liveliest sensibility for the Western country!

Mr. NICHOLAS said,—When the gentleman from Pennsylvania (Mr. Ross) opened his war project, his resentment appeared to be confined wholly to Spain; his sole object the securing the navigation of the Mississippi, and our right to a convenient place of deposit on that river. We were told by that gentleman, that we are bound to go to war for this right, which God and nature had given the Western people. What are we to understand by this right, given by God and nature? Surely not the right of deposit, for that was given by treaty; and as to the right of navigation, that has been neither suspended nor brought into question. But we are told by the same gentleman, that the possession of New Orleans is necessary to our complete security. Leaving to the gentleman's own conscience to settle the question as to the morality of taking that place, because it would be convenient, he would inform him that the possession of it will not give us complete security. The island of Cuba, from its position, and the excellence of its harbors, commands the Gulf of Mexico as completely as New Orleans does the river Mississippi, and to give that complete security that he requires of the President, the island of Cuba must likewise be taken possession of. It has been shown that the measures proposed by the gentleman from Pennsylvania, and he would again demonstrate it, if it was necessary, are calculated to bring upon the Western country all the mischiefs that gentleman has depicted as resulting to them from a loss of the navigation of the river Mississippi. If we are driven to war to assert our rights, the Western people must make up their minds to bear that loss during the war; for without a naval superiority, which we have not and cannot obtain, or the possession of Cuba, we shall not be able to avail ourselves of the navigation to any useful purpose. Although we may take possession of the Floridas and New Orleans, it is from a conviction of its pernicious effects upon the Western country, as well as other reasons, that he was averse to appealing to arms as long as there is a prospect of attaining our object in another way.

The gentleman from New York, finding the weight of argument against him, and that a resort to arms would not be justifiable upon the ground taken by his friends, with a boldness and promptitude that characterizes veteran politicians, has not only assigned new and different causes for war, but new objects, and a new and more powerful enemy to cope with. He no doubt felt the force of the arguments that have been used to show the improbability that Spain would authorize an act that would produce a rupture with this country, at the moment that she was parting with Louisiana, and when she could not possibly derive any advantage from the wrong that she could do us by that act; and at a time when we knew from unquestionable evidence that it is the desire of Spain to cultivate a good understanding with this country. He could give no credit to the suggestion, that the First Consul had required Spain to take that step. He knew that character too well to believe that he would attempt to throw a responsibility upon others, for his measures, nor indeed could it be shown that the First Consul would be in any way benefited by it; he knows the American character too well to believe that any of the reasons that have been assigned by his friends who have preceded him in this argument, would form a justification for a declaration of war, without a previous demand for a redress of the wrongs that we have sustained. He knows that our countrymen, with a courage and perseverance that does promise success in any war, are at all times ready when it is necessary to assert their rights with arms, but that they will not be employed in wars of ambition or conquest; and above all, he sees the folly of going to war with Spain, and taking from her a country that we should be obliged in honor and justice to give up to the French, perhaps the instant after we had taken possession of it; for if France would reinstate us in the rights and privileges that we hold under our new treaty with Spain, I demand of the gentleman from New York, if he would wish this country to hold possession against France; and if he would, upon what ground he would justify it?

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The cession was made to France before the injury done us by the Spanish officer; knowing this, we take the country; upon France demanding it of us, we should be bound by every principle of honor and justice to give her possession, upon her engaging to respect properly our rights. Spain having injured us surely will not justify our committing an outrage of the most injurious and insulting nature upon France. Would conduct like this comport with the gentleman's ideas of



national honor, about which we have heard so much in the course of this debate? Can it be, that an act, which, if perpetrated by an individual, would be robbery, can be justifiable in a nation? And can it be justifiable in the eyes of men, who believe there is nothing so precious or important as national honor? Can the usefulness or convenience of any acquisition justify us in taking from another by force what we have no sort of right to?

There were not in America men more attached or more faithful to the Government of the United States than they were; and I will venture to predict, from my knowledge of them, that they will be the last to submit to the yoke of despotism, let it be attempted to be imposed upon them by whom it may. If there is one part of America more interested than any other in preserving the union of these States, and the present Government, it is the Western. Important as the Mississippi is to them, their free intercourse with the Atlantic States is more important—all their imports are received through that channel, and their most valuable exports are sold, and will continue to be so, in the Atlantic States. The same gentleman (Mr. MORRIS) says, we must line our frontier with custom-house officers, to prevent smuggling. If there is any force in what he says upon this subject, we ought not only to take New Orleans and the Floridas, but Louisiana, and all the British possessions on the continent. Another reason urged with great earnestness by the gentleman from New York, (Mr. MORRIS,) is, that France, without this acquisition, is too powerful for the peace and security of the rest of the world—that half the nations that lately existed are gone—that those that are left are afraid to act, and nation after nation falling at her nod—that, if France acquires the Floridas and New Orleans, it will put England and Spain completely in her power, giving to those places an importance that they do not merit; and yet that gentleman and his friends have repeatedly asserted that war would not result from our taking immediate possession of those places; indeed, they say, it is the only way to avoid war. At one moment the country is represented as so important as to make the First Consul the sovereign of the world; at the next, we are told that we may take it without any sort of risk, and without a probability that either France or Spain will go to war with us for the recovery of a country so all-important to them. In the language of the gentleman from Pennsylvania, I say, this idle tale may amuse children, but will not satisfy men.

Mr. PRESIDENT, we have nothing to fear from the colony of any European nation on this continent; they ought rather to be considered as a pledge of the good conduct of the mother country towards us; for such possessions must be held only during our pleasure.

Can France, in fifty years, or in a century, establish a colony in any part of the territories now possessed by Spain, that could resist the power of the United States, even at this day, for a single campaign? What has been our progress since the year 1763, in settling our Western country? In forty years, under the most favorable circumstances that a new country could be settled, we have only a population of between five and six hundred thousand souls, and this country is settled by men who knew it perfectly—by men who either carried all their friends with them, or who knew that change of residence would not prevent their frequently seeing and hearing from their nearest relatives. Can it be expected that any country will be peopled as fast, from a nation at the distance of three thousand miles, as our Western country has been? And yet we are taught to be apprehensive of a colony to be landed to-morrow or next day from Europe. Sir, if we are wise and true to ourselves, we have nothing to fear from any nation, or combination of nations, against us. We are too far removed from the theatre of European politics, to be embroiled in them, if we act with common discretion. Friendship with us, is the interest of every commercial and manufacturing nation. Our interest is not to encourage partialities or prejudices towards any, but to treat them all with justice and liberality. He should be sorry to reproach any nation—he would rather suffer former causes of reproach to be buried in oblivion; and he was happy to perceive that prejudices which were incidental to the war that we had been forced into in defence of our liberties, with a nation from which we are principally sprung, were fast wearing off. Those prejudices had been very powerfully revived, soon after our Revolution had established our independence, by the aggressions of that nation, in various ways, more flagrant and atrocious than any thing we have to complain of at this day.

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The gentleman from Pennsylvania said that this is not an apposite case; that at that time there was no blockade. It is true there was not a blockade of one of our ports, nor is there now, (the river Mississippi is open for the passage of our boats and vessels,) but we were injured, in a commercial point of view, in a more material manner than we should have been by the blockade of the Delaware or the Chesapeake; for all the countries (except Great Britain) to which it was desirable for us to trade were declared to be in a state of blockade, and all our vessels going to those countries were subject to seizure. Let gentlemen call to mind what was the conduct of our Government at that time. The House of Representatives had the subject under consideration, when the then President appointed an Envoy Extraordinary to demand satisfaction of Great Britain. What was the conduct of the members of the House of Representatives, who were acting upon the subject, before it was known to them that the Executive had taken any measures to obtain satisfaction for the injury sustained? Did they attempt to counteract the Executive? No; they suspended all Legislative discussions and Legislative measures. And even the injuries done us by the actual invasion of our territory, the erection of fortifications within our limits, the withholding the posts that belonged to us by treaty, and the robbery and abuse of our citizens on the high seas, did not provoke us to declare war, nor even to dispossess the invaders of our territory of what actually belonged to us. The Executive proposed to negotiate, and it was thought improper to obstruct it. How gentlemen who approved of the interference of the Executive upon that occasion, can justify their attempt to defeat the efforts of the present Administration to obtain redress for the injury that we now complain of, they must answer to their consciences and their country. Fortunately for the United States, not only the President, but



a majority of both Houses of Congress, upon the present occasion, have put themselves in the gap between the pestilence and the people.

If the gentleman from New York had exerted his ingenuity as much to state the grounds upon which an expectation of the complete success of our Envoy might be founded, he would have been at least as usefully employed for his country as he has been in his attempt to show that it will not succeed, and he would have avoided the palpable contradictions of his own arguments that he has run into. The gentleman himself, without intending it, has assigned sufficient reasons why we might expect entire satisfaction. He has said, truly, that America, united, holds the command of the West Indies in her hands. This must be known to all the nations that have colonies there; it must likewise be known to the proprietors of Louisiana and the Floridas, that, circumstanced as we at present are, there will be perpetual sources of contention between them and us. Every thing that has happened as to the Mississippi will be reacted as to the great rivers that head in what is now the Mississippi Territory, and empty themselves into the Gulf of Mexico, after passing through West Florida. In the infancy of the colonies that may be settled in Florida or Louisiana, the mother country can count upon nothing but expense, particularly if they are to be the causes of perpetual quarrels with this country. In twenty years, the population of the United States will be nine or ten millions of people; one-third of that population will probably be on the Western waters. This will give a force in that quarter of the Union equal to that with which we contended with Great Britain; and our united force will be such that no nation at the distance of three thousand miles will be able to contend with us for any object in our neighborhood. These considerations, with a belief that, if we are treated with justice and liberality, we shall never violate the rights of other nations, or suffer ourselves to be involved in the wars that may take place among the great European nations, are arguments that cannot be withstood, if the Governments of France and Spain are in the hands of wise men; for they must see that they have nothing to hope from a contest with us, and that a union of our force with a rival nation would be productive of very serious danger and inconvenience to them.

Mr. DAYTON said, he lamented exceedingly the indisposition of the honorable member from Virginia, (Mr. NICHOLAS,) not only because it had compelled him to abridge his arguments, which always entertained, even when they failed to convince, but because to that distraction of mind which sickness often produces, could alone be ascribed the doubts expressed by that member, respecting the views of the advocates of the original resolutions. The difficulty of the opposers of the resolutions, would, he said, have been less, if the gentlemen who supported them had settled among themselves what was their object, and had ascertained with whom we were to make war. To both these points, Mr. D. said, the fullest and clearest answers had been given. Our object, says he, is to obtain a prompt redress of injuries immediately affecting our Western brethren, who look to us for decisive and effectual measures, and have told us that a delay of remedy will be ruinous to them; and our views and wishes are to take possession of the place of deposit guaranteed by treaty, whether it be in the hands of the one nation or the other, and to hold it as a security that the trade of so important a river should not be liable to similar interruptions in future. We are not, as the gentleman from Virginia would insinuate, for rushing into a war, but we are for repelling insults, and insisting upon our rights, even at the risk of one. It was easy to foresee that the opposers of the resolutions offered by the honorable gentleman from Pennsylvania, must resort to other means than fair argument, to justify them in the course which they were about to pursue. Our most precious rights flagrantly violated, treaties perfidiously broken, the outlet or road to market of half a million of our fellow-citizens obstructed, our trade shackled, our country grossly insulted, were facts too notorious, and too outrageous to allow them the least plausible ground of reasoning. Deprived of every other means of attack, they have resorted to that of alarm. They charge us with a thirst for war, and enter into a description of its horrors, as if they supposed that it was in our power to produce, or in theirs to prevent it. That which requires the concurrence of two parties, viz: contract or negotiation, they consider most easy; and war, which may always be produced by one party only, they consider as most difficult. Nay, sir, they do what is more extraordinary and unpardonable, they shut their eyes to the fact that hostility has already been commenced against us. Attacked and insulted as we had been, do we now, asked Mr. D., call for war? Let the resolutions give the answer. They begin with a declaration of certain rights, indisputable in their nature, indispensable in their possession, to the safety, peace, and union of this country. Not a member opposed to us has controverted them, except the honorable gentleman from Maryland, (Mr. WRIGHT.) He denied the truth of all except one of them, and even of a part of that one. His honorable friends from the Western country, who are in the habit of acting with him, cannot thank him for such defence. The formerly well applied words, "*Non tali auxilio nec defensoribus istis egent,*" must be applicable on this occasion, and it may be as well to leave them with each other to settle the question of their rights. But there is one article of the Maryland member's creed which ought not to escape comment, because, if adopted, it would be fatal to the Union. I understood him, said Mr. D., as stating, that inasmuch as the produce which descends the Mississippi bears a proportion of about a twentieth only to the exports of the whole Union, it was not reasonable to expect that the other portion should be endangered to protect that minor part. If maxims like this were to actuate our councils, short indeed would be the duration of our independence. Our enemies would have only to attack us by piecemeal, State by State, to make us an easy prey. The honorable member from Maryland could not hope for even that gloomy consolation which we heard of on a former melancholy occasion. He could not flatter himself that he and his State would be left to be the *last victim*.

But, Mr. PRESIDENT, every other gentleman appears to admit the truth of the prefatory declaration of rights; they admit, too, that if we cannot be possessed of them otherwise, we must seize on them by force; but they refuse to give the means and the power to the President, in whom they

have told us, over and over again, they repose implicit confidence. Is any one of the resolutions too imperative on the President, we will agree so to alter as to make it discretionary, if desired by any gentleman on the other side; for without their leave, we cannot now amend our own resolutions.

It is my consolation, Mr. PRESIDENT, said Mr. D., and it ought to be matter of triumph to my honorable friend, the mover of these resolutions, that, whatever may be their fate, the introduction and discussion of them will have produced no little benefit. They have brought forward gentlemen to pledge themselves, in their speeches, to employ force on failure of negotiation; which, though late, is better than never. They must be allowed the merit, too, of producing the resolutions which they offer as a substitute. These milk-and-water propositions of Mr. BRECKENRIDGE will at least serve to show that something should be done, some preparations made; and therefore even to these, feeble as they are, I will agree, if more cannot be carried. But let the relative merits of the two be compared. *Ours* authorize to call out of those militia nearest to the scene, and most interested in the event, a number not exceeding fifty thousand, and to give them orders to act, when the occasion requires it, in conjunction with the army and navy; *theirs* authorize an enrolment of eighty thousand, dispersed over the whole Continent, without any authority to act with them, however pressing the danger, nor even to march them out of their own State. *Ours* authorize the President to take immediate possession of some convenient place of deposit, as guaranteed by treaty, in order to afford immediate vent for the Western produce, and relief to our suffering fellow-citizens, and thereby put it out of the power of a Spanish Intendant, whether acting from caprice, or orders from his Court, to obstruct so important an outlet; *theirs* give no such authority, but leave to the slow progress and uncertainty of negotiation that remedy, which, to delay, is almost as fatal as to refuse.

The question being at length called for, on the motion of Mr. BRECKENRIDGE, for striking out the first section of the resolutions proposed by Mr. ROSS, the yeas and nays were required, and stood, 15 to 11, as follows:

YEAS.—MESSRS. Anderson, Baldwin, Bradley, Breckenridge, Clinton, Cocke, Ellery, T. Foster, Jackson, Logan, S. T. Mason, Nicholas, Stone, Sumter, and Wright.

NAYS.—Messrs. Dayton, Hillhouse, Howard, J. Mason, Morris, Olcott, Plumer, Ross, Tracy, Wells, and White.

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On the question for striking out the remaining parts of the resolutions, the question was also taken, and carried by the same votes on each side.

The question being then called for on the adoption of the amendments proposed by Mr. BRECKENRIDGE, the yeas and nays were called for, and the votes were as follows:

YEAS.—MESSRS. Anderson, Baldwin, Bradley, Breckenridge, Clinton, Cocke, Dayton, Ellery, T. Foster, Hillhouse, Howard, Jackson, Logan, S. T. Mason, J. Mason, Morris, Nicholas, Olcott, Plumer, Ross, Stone, Sumter, Tracy, Wells, and Wright.

NAYS.—None.

So it was unanimously

*Resolved*, That the President of the United States be, and he is hereby authorized, whenever he shall judge it expedient, to require of the Executives of the several States to take effectual measures to arm, and equip, according to law, and hold in readiness to march, at a moment's warning, eighty thousand effective militia, officers included.

*Resolved*, That the President may, if he judges it expedient, authorize the Executives of the several States to accept, as part of the detachment aforesaid, any corps of volunteers who shall continue in service for such time not exceeding — months, and perform such services as shall be prescribed by law.

*Resolved*, That — dollars be appropriated for paying and subsisting such part of the troops aforesaid, whose actual service may be wanted, and for defraying such other expenses as during the recess of Congress the President may deem necessary for the security of the territory of the United States.

*Resolved*, That — dollars be appropriated for erecting, at such place or places on the Western waters as the President may judge most proper, one or more arsenals.

After the question was taken,

The resolutions were referred to MESSRS. BRECKENRIDGE, JACKSON, and SUMTER, to bring in a bill or bills accordingly.

### WEDNESDAY, March 2.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President, *pro tempore*, as the constitution provides, and the ballots being collected and counted, the whole number was found to be 18, of which 10 make a majority.

Mr. Bradley had 13, Mr. Morris 3, Mr. Hillhouse 1, and Mr. Logan 1.

Consequently, the Hon. STEPHEN R. BRADLEY was elected President of the Senate, *pro tempore*.

*Ordered*, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that, in the absence of the Vice President, they have elected the Hon. STEPHEN R. BRADLEY President of the

Senate, *pro tempore*.

*Ordered*, That the Secretary make a like communication to the House of Representatives.

The PRESIDENT communicated the credentials of JAMES HILLHOUSE, elected by the State of Connecticut a Senator of the United States for six years, commencing with the fourth day of March current; and they were read and ordered to lie on file.

### THURSDAY, March 3.

A message was received from the House of Representatives by Mr. NICHOLSON and Mr. RANDOLPH, two of the members of said House, in the words following:

"Mr. PRESIDENT: We are commanded, in the name of the House of Representatives and of all the people of the United States, to impeach John Pickering, judge of the district court for the district of New Hampshire, of high crimes and misdemeanors, and to acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same. We are further commanded to demand that the Senate take order for the appearance of the said John Pickering, to answer to the said impeachment."

### THURSDAY EVENING, 6 o'clock.

Mr. TRACY, from the committee appointed on the subject, made the following report, which was adopted, and the House of Representatives notified accordingly:

Whereas the House of Representatives have this day, by two of their members, Messrs. Nicholson and Randolph, at the bar of the Senate, impeached John Pickering, judge of the district court for the district of New Hampshire, of high crimes and misdemeanors, and have acquainted the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same: and have likewise demanded that the Senate take order for the appearance of the said John Pickering to answer to the said impeachment: Therefore,

"*Resolved*, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives."

*Resolved*, That the Secretary of the Senate notify the House of Representatives of this resolution.

*Adjournment*.

*Ordered*, That Messrs. WRIGHT and COCKE be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the PRESIDENT OF THE UNITED STATES and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

A message from the House of Representatives informed the Senate that the House of Representatives concur in the resolution of the Senate for the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and notify him of the proposed adjournment of the two Houses of Congress, and have appointed a committee on their part.

Mr. WRIGHT reported, from the joint committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he informed the committee that he had no further communications to make to the two Houses of Congress.

On motion, the Senate adjourned to the first Monday in November next.

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## SEVENTH CONGRESS.—SECOND SESSION.

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### PROCEEDINGS AND DEBATES

IN

### THE HOUSE OF REPRESENTATIVES.

MONDAY, December 6, 1802.

This being the day appointed by the constitution for the annual meeting of Congress, the following members of the House of Representatives appeared and took their seats, to wit:

*From New Hampshire*.—Abiel Foster and Samuel Tenney.

*From Massachusetts*.—John Bacon, Seth Hastings, Nathan Read, Josiah Smith, Joseph B. Varnum, Peleg Wadsworth, and Lemuel Williams.

*From Rhode Island*.—Joseph Stanton, jr., and Thomas Tillinghast.

*From Connecticut*.—John Davenport, Calvin Goddard, Elias Perkins, John Cotton Smith, and Benjamin Tallmadge.

*From New York.*—Samuel L. Mitchill, John Smith, David Thomas, John P. Van Ness, and Killian K. Van Rensselaer.

*From New Jersey.*—John Condit, Ebenezer Elmer, James Mott, and Henry Southard.

*From Pennsylvania.*—Robert Brown, Andrew Gregg, Joseph Heister, Joseph Hemphill, William Hoge, Michael Leib, John Smilie, John Stewart, Isaac Van Horn, and Henry Woods.

*From Maryland.*—John Dennis, Joseph H. Nicholson, Thomas Plater, and Samuel Smith.

*From Virginia.*—Thomas Claiborne, John Clopton, John Dawson, David Holmes, George Jackson, Anthony New, John Smith, and Philip R. Thompson.

*From North Carolina.*—Nathaniel Macon, Speaker, Richard Stanford, and John Stanley.

*From Tennessee.*—William Dickson.

*From the North-western Territory.*—Paul Fearing.

Several new members, to wit: SAMUEL HUNT, from New Hampshire, returned to serve as a member of this House, in the room of Joseph Peirce, who has resigned his seat; SAMUEL THATCHER, from Massachusetts, returned to serve as a member of this House, in the room of Silas Lee, who has resigned; and DAVID MERIWETHER, from Georgia, returned to serve as a member of this House, in the room of Benjamin Taliaferro, who has also resigned; appeared, produced their credentials, and took their seats in the House.

A new delegate, from the Mississippi Territory, to wit, THOMAS M. GREEN, returned to serve in this House, in the room of Narsworthy Hunter, deceased, appeared, produced his credentials, and took his seat in the House.

But a quorum of the whole number of qualified members not being present, the House adjourned until to-morrow morning, eleven o'clock.

### **TUESDAY, December 7.**

Another new member, to wit, THOMAS WYNN, from North Carolina, returned to serve as a member of this House, for the said State, in the room of Charles Johnson, deceased, appeared, produced his credentials, and took his seat in the House.

Several other members, viz: from New Hampshire, GEORGE B. UPHAM; from Massachusetts, PHANUEL BISHOP, MANASSEH CUTLER, and WILLIAM SHEPARD; from Connecticut, SAMUEL W. DANA and ROGER GRISWOLD; from Pennsylvania, THOMAS BOUDE; from Virginia, THOMAS NEWTON, jr., and JOHN TRIGG; from North Carolina, JAMES HOLLAND; and from South Carolina, THOMAS MOORE; appeared, and took their seats in the House.

And a quorum, consisting of a majority of the whole number of qualified members, being present, 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 administered by Mr. SPEAKER to the new members.

*Ordered,* That a message be sent to the Senate, to inform them that a quorum of this House is assembled, and are ready to proceed to business, and that the Clerk of this House do go with the said message.

### **WEDNESDAY, December 8.**

Two other members, to wit: from New Jersey, WILLIAM HELMS, and from North Carolina, WILLIS ALSTON, appeared, and took their seats in the House.

### **THURSDAY, December 9.**

Two other members, to wit: WALTER BOWIE, from Maryland, and THOMAS T. DAVIS, from Kentucky, appeared, and took their seats in the House.

### **FRIDAY, December 10.**

Two other members, to wit: WILLIAM EUSTIS, from Massachusetts, and JOHN A. HANNA, from Pennsylvania, appeared, and took their seats in the House.

### **SATURDAY, December 11.**

Another member, to wit, ARCHIBALD HENDERSON, from North Carolina, appeared, and took his seat in the House.

### **MONDAY, December 13.**

Several other members, to wit: from Massachusetts, RICHARD CUTTS; from New York, THOMAS MORRIS; from Virginia, ABRAM TRIGG; and from South Carolina, THOMAS LOWNDES; appeared, and took their seats in the House.

### **TUESDAY, December 14.**

Several other members, to wit: from Massachusetts, EBENEZER MATTOON; from New York, THEODORUS BAILEY; from Virginia, JOHN RANDOLPH, jr., and JOHN TALIAFERRO, jr.; and from South Carolina, WILLIAM BUTLER; appeared, and took their seats in the House.

### **WEDNESDAY, December 15.**

Another member, to wit, EDWIN GRAY, from Virginia, appeared, and took his seat in the House.

A message from the Senate informed the House that the Senate have agreed to the resolution of this House for the appointment of Chaplains to Congress for the present session; and have appointed the Rev. Dr. GANTT, on their part.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress, on the part of this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Reverend WILLIAM PARKINSON.

A Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. LEWIS, his Secretary, as follows:

Mr. SPEAKER: I am directed by the President of the United States to hand you a communication, in writing, from the President to the two Houses of Congress.

And he delivered in the same, together with the accompanying documents. The said communication was read. [For which, see proceedings in the Senate of this date.]

*Ordered*, That the said communication, with the accompanying documents, be referred to the Committee of the whole House on the state of the Union.

### **THURSDAY, December 16.**

Two other members, to wit: LUCAS ELMENDORPH, from New York, and DANIEL HEISTER, from Maryland, appeared, and took their seats in the House.

### **FRIDAY, December 17.**

Two other members, to wit: from South Carolina, BENJAMIN HUGER, and JOHN RUTLEDGE, appeared, and took their seats in the House.

#### ***Violation of the Right of Deposit at New Orleans.***

Mr. RANDOLPH observed that there had been a recent occurrence, in which every member of the House was interested, though every member might not, perhaps, possess competent information respecting it. He said it would be useless in him to impress the magnitude of a subject that related to the free navigation of the Mississippi, which materially affected a district of country growing every day in wealth and importance, and which it behooved the whole United States to cherish and protect. He moved, therefore, the following resolution:

"*Resolved*, That the President of the United States be requested to cause to be laid before this House such papers as are in the possession of the Department of State, as relate to the violation on the part of Spain, of the Treaty of Friendship, Limits, and Navigation, between the United States of America and the King of Spain."

### **MONDAY, December 20.**

Several other members, to wit: from Vermont, ISRAEL SMITH; and from Virginia, RICHARD BRENT, and MATTHEW CLAY; appeared, and took their seats in the House.

### **TUESDAY, December 21.**

Another member, to wit, JOHN CAMPBELL, from Maryland, appeared, and took his seat in the House.

### **WEDNESDAY, December 22.**

Another member, to wit, JOHN ARCHER, from Maryland, appeared, and took his seat.

#### ***Violation of the Right of Deposit at New Orleans.***

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*Gentlemen of the House of Representatives:*

I now transmit a report from the Secretary of State, with the information requested in your resolutions of the seventeenth instant.

In making this communication, I deem it proper to observe, that I was led by the regard due to the rights and interests of the United States, and to the just sensibility of the portion of our fellow-citizens more immediately affected by the irregular proceeding at New Orleans, to lose not a moment in causing every step to be taken which the occasion claimed from me; being equally aware of the

obligation to maintain, in all cases, the rights of the nation, and to employ, for that purpose, those just and honorable means which belong to the character of the United States.

TH. JEFFERSON.

Dec. 22, 1802.

The Message, and the papers referred to therein, were read, and ordered to lie on the table.

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### *The Mint.*

Mr. RANDOLPH rose, in order to renew a motion which he had made yesterday, and on which—being called to the door when some objections were urged against it—he was surprised to find himself in a small minority. Understanding that the refusal to resolve itself into a Committee of the Whole on his motion for abolishing the Mint, was the effect of a desire on the part of the House to receive the report of the Director of that institution, for the past year, he would endeavor to show that the House were already in possession of competent information, and that it could not be affected by any communication which the head of that department might make. If this were a subject novel to the House, and of an undigested nature, he should readily acknowledge his motion to have been premature; nor would it, under those circumstances, have been submitted to the House. But, on examination, it would appear that the subject had been matured during the last session; that information of the most satisfactory nature had been received from the Director; and a bill actually passed the House. That information, if it were not in the recollection of every member of the House, was accessible to all of them. It stated explicitly that the machinery would not last, without repair, longer than another year—this, he presumed, had not renewed itself; that the horses were so old that it would be necessary, at the end of the year, to replace them by others—these had not, he supposed, grown younger; that the lot was too circumscribed, and this, he imagined, had not enlarged its limits; that the expense of the institution could not, by any new arrangements, be reduced below twenty thousand dollars. The Director had not only recommended a change of the site, but of the *modus operandi* of the machinery of the Mint, by supplying the labor of horses by steam. Upon this information the House had acted last session. No general election having intervened, he must presume that no change of sentiment had taken place. He, therefore, thought he had a right to consider this subject as perfectly matured, and there being no other business before the House, hoped it would be taken up; although he was not surprised at the reluctance of those gentlemen who cherished the institution as one of the insignia of sovereignty, to act upon it. This aspect of the subject could not, however, be changed by any report of the detailed operations of the Mint. He, therefore, moved that the House, agreeably to the order of the day, resolve itself into a Committee of the Whole on the resolution to repeal so much of the laws on the subject of the Mint as relate to the establishing of a Mint.

Mr. SOUTHARD was in favor of the postponement. There were now present a number of gentlemen not members at the period of discussion during the last session. They have no documents, and cannot be correctly informed. He saw no advantage in entering upon the discussion at this time, as new and additional information may be received from the report of the Director. It had been said there was no business before the House; but there was business; there was a bill upon their table, why not take that up and act upon it?

Mr. RANDOLPH called for the reading of a document that would throw clear and full light upon the subject; not light of that fleeting kind that may be derived from an annual report. From this document sufficient information could be had to convince any member that we might act as well now as at any other time.

[The Clerk read a report from the Director of the Mint, received during the last session, stating the real and personal property attached to the Mint; that the machinery might last for one year; that the horses may last a year; that to conduct the operations of the Mint to advantage, steam should be used instead of horses; that the lot on which the Mint is erected was too small; and that a less annual sum than seventeen or eighteen thousand dollars would not provide for the establishment.]

Mr. RANDOLPH said he would state a fact, which was, that notwithstanding all the issues from the Mint, no member sees a coin. For himself he had not seen a piece of gold coined in the Mint for two years.

Mr. LOWNDES said the remark of the gentleman from Virginia (Mr. RANDOLPH) was not correct, as he had seen many pieces of American coin. But he could assign a satisfactory reason for the appearance of so little gold in ordinary circulation. It was the practice of the banks to count over once a month the specie in their vaults. This trouble was considerably lessened by depositing gold instead of silver. He had been credibly assured that there was now in the vaults of the banks of the United States gold, in eagles and half eagles, to the amount of two millions of dollars.<sup>[72]</sup>

Mr. DENNIS said that, if, on full inquiry, the establishment appeared to be a drain on the Treasury, he should be for abolishing it; but he should not, on immature information, be for abolishing an institution, coeval with the Government, and founded on good reasons. The reasons adduced by the gentleman from Virginia (Mr. RANDOLPH) were insufficient. So far as related to the horses, he believed there were only four employed, and the purchase of four fresh ones would be a very unimportant consideration. Another argument was drawn from the smallness of the lot on which the Mint stands. Though it might be better conducted on a more extensive lot, yet he was not

satisfied, notwithstanding present disadvantages, that it might not be profitably conducted, at least so far as regarded a copper coinage. For these reasons he thought it proper to wait a few days, in order to receive information that would enable them to understand the points on which their decision may ultimately turn.

The question was then taken on Mr. GREGG'S motion to postpone the subject till the second Monday in January, and carried—ayes 47, noes 28.

### **THURSDAY, December 23.**

Another member, to wit, LEWIS R. MORRIS, from Vermont, appeared, and took his seat in the House.

### **FRIDAY, December 24.**

Another member, to wit, WILLIAM H. HILL, from North Carolina, appeared, and took his seat in the House.

### **MONDAY, December 27.**

#### ***Case of J. P. Van Ness.***

Mr. DAVIS observed that he was of opinion that a member of the House retained his seat contrary to the spirit and sense of the constitution. It therefore became his duty to offer a resolution for instituting an inquiry into the subject, in doing which he disclaimed all personal view. He then made the following motion:

*Resolved*, That the Committee of Elections be, and they are hereby, instructed to inquire whether John P. Van Ness, one of the members of this House from the State of New York, returned by said State to serve as one of its members in the seventh Congress of the United States, has not, since his election as a member of this House, and since he occupied a seat as a member, accepted of, and exercised the office of a major of militia, under the authority of the United States, within the Territory of Columbia, and thereby forfeited his right to a seat as a member of this House.

Mr. MITCHILL considered the point as interesting in two relations; that which involved the decision of a principle, and that which went to deprive the State, (New York,) one of whose representatives he was, of a member. For these reasons he hoped the business would not be immediately pressed. He acknowledged this was not the first intimation he had received of the contemplation of such a motion; but he had entertained a hope that the gentleman with whom it originated, had, on reflection, considered it not inconsistent with his duty to abandon it.

Mr. DAVIS replied, that he felt no disposition to press a decision. He had communicated, the first day he took his seat, his ideas on the subject to certain members, the friends of the gentleman implicated by the resolution, in hopes that he would resign. He now entertained no wish to push the business. He supposed, however, that the resolution would, of course, go to the Committee of Elections. He repeated that he was governed by no personal prejudice, but entirely by a sense of duty. He concluded with saying he was in favor of the question of reference being immediately taken.

But on Mr. MITCHILL repeating his desire for some delay, Mr. DAVIS agreed to let the resolution lie till to-morrow.

### **TUESDAY, December 28.**

Two other members, to wit: from Virginia, JOHN STRATTON; and from North Carolina, WILLIAM BARRY GROVE, appeared, and took their seats in the House.

#### ***Letter of James McHenry.***

The SPEAKER laid before the House a letter addressed to him from James McHenry, late Secretary for the War Department, containing a variety of observations on the subject-matter of a report presented to the House, on the twenty-ninth day of April last, from the committee appointed to inquire and report, whether moneys drawn from the Treasury have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for; and to report, likewise, whether any further arrangements are necessary to promote economy, enforce adherence to Legislative restrictions, and secure the accountability of persons intrusted with the public money, together with an appendix, comprising sundry explanatory statements in defence of the official conduct of the said James McHenry, whilst acting in the capacity aforesaid: the House proceeded in the reading of the said letter, and having made some progress therein,

Mr. ALSTON said that the paper which the Clerk was reading appeared to him to be a very voluminous one, and that he did not think the House were bound to listen to the reading of it. He conceived them only bound to attend to such documents as might be received from public officers, or to petitions for a redress of grievances. He did not believe the paper now before the

House to be one of that description, or that the House ought to take any notice of it. If the House were bound to take notice of every letter any individual might think proper to write and address to the Speaker, very little time might be left to do any other business. He concluded by saying he thought they ought to take no more notice of it than they should of any paragraph in a newspaper which might be enclosed to the Speaker. He therefore moved that the paper should not be read.

Mr. STANLEY observed that he did not perceive the difference stated by his colleague; nor did he know how the gentleman could anticipate the contents of a communication before read. We shall be enabled to judge better of it when we hear it. By what inspiration could the gentleman form a judgment now? The communication appeared to him of the utmost importance. He hoped, therefore, it would be read.

Mr. MORRIS could not omit making a remark or two. From the communication, so far as read, it appeared that it was charged that the character of a former public officer had been aspersed. The House ought, therefore, not only to read the communication, but also to inquire into the complaint. There was not an indecent expression in it. The writer complains that his character has been attacked; he thinks unjustly attacked. It will be the height of injustice to refuse him an opportunity of being heard.

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The SPEAKER said that it was a rule of the House that when the reading of a paper is called for, it shall be read, unless dispensed with by general consent.

Mr. RANDOLPH said he wished only to observe, that there was but one principle (and that had been stated by the Speaker) on which these papers ought to be read. Any member had a right to call for the reading of papers. To him, however, it appeared that there was no occasion for inspiration to perceive that the papers, so far as read, were in a high degree indecent, unworthy of any man who had held, or ought to hold, an office under Government, and derogatory from the dignity of the House. Members were cited by name; insults were offered to individual members; a committee was divided into different sects; on one class illiberal calumnies were thrown, while the other class was shielded from reflection. Was this decent or indecent? He congratulated himself that he differed as widely on this subject as he did on others from gentlemen.

Mr. MORRIS said, however widely he might differ on this as well as other subjects from the gentleman from Virginia, he believed his own ideas of what was decent or indecent as correct as those of that gentleman. The letter states that a report had been made during the last session implicating the character of the writer. It further states that certain gentlemen on the committee did not concur in the report. This the writer knew from the debates upon the report. He therefore thought it his duty, in vindicating himself, to exonerate those members from censure. Was this indecent? He conceived not.

Mr. M. said that when he had observed that there was not an indecent expression in the letter, he meant that there was no such expression applied to the House collectively. He did not mean to say there were no charges against individual members. But if there were charges against individual members, that was no reason for the House refusing to hear it. That could only be done when charges were made against the House in its collective character.

The SPEAKER read the rules of the House that applied to the case before them.

Mr. ALSTON said he only rose to notice the observation of his colleague, (Mr. STANLEY,) who supposed he saw the inside of the communication before it was presented. This he denied. He had grounded his motion exclusively on what he had heard read.

Mr. BACON was at a loss to decide on the propriety of reading or not reading these papers. He perceived that they contained not only a complaint, but a high charge against a committee of the House, stating that the major part assumed to act exclusively upon the business assigned to the whole committee, without consulting the other members. This was a high charge. Whether proper, or regularly made, he did not know. It was rather his opinion that the House ought to proceed in reading the papers, and afterwards to pass proper order on them.

The SPEAKER declared the rule for reading imperative, and Mr. ALSTON withdrew his motion; on which the Clerk proceeded in the reading, which was continued for more than an hour.

## **WEDNESDAY, December 29.**

### ***Case of John P. Van Ness.***

Mr. DAVIS called up his resolution instructing the Committee of Elections to inquire whether Mr. VAN NESS had not forfeited his seat, by accepting the appointment of Major in the Militia of the Territory of Columbia.

Mr. VAN NESS said that, so far as the decision of the House might affect him personally, he felt little concern; but, so far as it affected him as a representative of an important State, he was not so indifferent. He had no objection whatever to the proposed inquiry being made. As it involved the decision of an important principle, it deserved great attention. He had no doubt of the inquiry being made with that candor and fairness which, in most cases, characterized the proceedings of the House. He was far from imputing any impure motives to the mover or seconder of the resolution. It would be as derogatory to him to impute, as in them to entertain, any views dishonorable or base. He had risen barely to state his wish that an inquiry might be made.

Mr. ELMENDORPH proposed a verbal amendment, which was not agreed to.



The resolution was then adopted without a division.

**WEDNESDAY, January 5, 1803.**

***Cession of Louisiana to France.***

Mr. GRISWOLD called up his resolution respecting Louisiana, laid on the table yesterday, as follows:

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before this House copies of such official documents as have been received by this Government, announcing the cession of Louisiana to France, together with a report explaining the stipulations, circumstances, and conditions, under which that province is to be delivered up: unless such documents and report will, in the opinion of the President, divulge to the House particular transactions not proper at this time to be communicated.

The question was put on taking it into consideration, and carried—yeas 35, nays 32.

Mr. RANDOLPH observed that the discussion on this motion might embrace points nearly connected with the subject referred to a committee of the Whole on the state of the Union, and which had been discussed with closed doors. He therefore thought it would be expedient to commit this motion also to the Committee of the Whole on the state of the Union, to whom had been committed the Message of the President respecting New Orleans.

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Mr. GRISWOLD hoped the motion would not prevail. He did not see what argument could be urged in favor of it. The resolution related to a public transaction stated on their journal. He did not think that any thing which ought to be kept secret could be involved in the discussion of it. What is its purport? It only requests the President to furnish documents respecting "the cession of the Spanish province of Louisiana to France, which took place in the course of the late war," and which the President says "will, if carried into effect, make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations of the Legislature connected with this subject."

Are not, said Mr. G., these papers important to the House? Does not the President refer to them as important to enlighten us? He speaks of the cession as a fact. He took it for granted the President would not make the declaration unless he had official information of its truth. Ought not the House to be possessed of all the important information in the power of the Executive to give? It certainly ought. Every gentleman would agree that the House ought to have all the information. If the information is confidential, it will be received with closed doors. But the question, whether the House shall obtain this information is a public question; and there was not a man within those walls, or in the United States, who would not say that the Legislature ought to possess every information on a subject so deeply interesting. Why, then, refer this resolution calling for information to a committee? Why postpone it? They had but a short time to sit. More than half the session was already elapsed. Is it not time to gain information? Mr. G. said, he would venture to declare that no subject so important could be brought before the Legislature this session. Ought we not, therefore, on such a subject, to take immediate means to gain information? He hoped the House would not agree to the reference, which could have no effect but to put the resolution asleep, and deprive the Legislature of information they ought to possess.

Mr. RANDOLPH said, as he had expressed his disinclination to discuss a proposition with open doors which would trench on the decision of the House to discuss a subject to which it intimately related with closed doors, it could scarcely be expected that he should indulge the gentleman in entering into arguments calculated to carry him from his purpose. But he denied that the adoption of his motion would be a refusal to give information. He well knew that there was nothing easier than to declare the subject vastly important, and to make an eloquent harangue upon it, and to infer that those who did not immediately agree to the resolution were averse to giving information, and to going into a discussion of the merits of the main subject. It would, however, not be expected that he should enter upon these on a preliminary resolution. But he would assure the gentleman who had submitted this resolution, that, so far from indulging any disposition to be dilatory in his attention to this important subject, he came yesterday prepared to make a motion that the House should go into a Committee of the Whole on the subject, which motion he should have then made but for that offered by the gentleman from Connecticut.

Mr. RUTLEDGE said that, did he consider that the giving publicity to any information on this subject would in the least interfere with the constitutional functions of the President, he would be the last man to support the resolution of his friend from Connecticut. But he could not conceive that this could be its effect. What were they about to ask? They were about to ask, in respectful terms, the President for information relative to what he states as a fact; so much information as he may think it expedient to give. Surely there would be no impropriety in this. The cession of Louisiana had been stated in all the public prints of Europe and this country, and on the floor of the British Parliament. This cession had been made a year ago, and, notwithstanding the elapse of this time, we have received no official information on this subject. Is it not natural for the people to ask why Congress do not call for this information? Will they not say the President has done his duty in stating the fact? Upon this subject, so very important, are they to be kept in the dark? Mr. R. could not conceive any turn of the debate on this resolution that could produce a discussion of the merits of the Message referred to the Committee of the Whole. If the President shall say the information he gives us ought not to be made public, he would answer for himself, and he believed he could answer for his friends, that they would not seek a public discussion. And if the

information is imparted without confidence, the House, if it see fit, can itself control a public discussion. Mr. R. concluded with saying that, in the present case, he was for deciding on the resolution with open doors.

Mr. S. SMITH thought this point ought in a great measure to be determined by the custom of the House in similar cases. He did not assert it as a fact, but, from recollection, he believed it was so, that when a call was made for papers in the case of the British Treaty, the question was referred to a Committee of the Whole, and there fully discussed. According to his recollection, one side of the House called for papers on the principle that, after negotiations were terminated, the House had a right to information before they made a grant of money under a treaty, but acknowledging that a call for such information might be improper during a pending negotiation. He was one of those who thought it proper, on that occasion, that the House should have the papers; but he also thought it improper, and had then so declared, to call for papers during a pending negotiation. Whether in the present instance a negotiation was pending or was not, he did not know. He was, therefore, for postponing the resolution till this was known to the House.

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Mr. DANA said that he did not know, nor had he heard from any quarter, that there was any negotiation depending respecting the cession of Louisiana. The President has informed us of the fact. All that the resolution asks are official documents respecting the cession, with the stipulations, circumstances, and conditions, under which it is to be delivered up. He could not see the impropriety of such a request. But if the President deem it improper to furnish the information, we do not assert our right to demand it. There are two views in which this information may be important; that which may throw light on the boundaries of the province as ceded; and another, whether the province is to be ceded to the French in the condition it shall be in when actually delivered up, or whether subject to the conditions in which it was held according to treaty by Spain. This is important information to guide our deliberations; information not depending upon an existing negotiation, but upon a negotiation decided.

Mr. GRISWOLD called for the taking of the yeas and nays.

Mr. SMILIE was in favor of the widest publicity in every case where it would not prove injurious; and there were, in his opinion, very few cases in which it ought not to take place. He could not, however, withhold one remark; that gentlemen should object to the mode now proposed, a mode similar to that adopted in like cases, greatly surprised him. [He here quoted the proceedings of the House on a call for papers in the case of the British Treaty.] That case furnished a precedent, by which it appeared that a motion for information was referred to a Committee of the Whole for a more full discussion.

Mr. DAVIS observed that, as he lived in that district of country most materially affected by the subject before the House, he thought it proper to express his opinion on the motion. He said he did not know what reason could be assigned for the motion, but that expressed by the gentleman from Virginia, to go into a Committee of the Whole in private, to propose certain resolutions that required secrecy.

Mr. D. said it had been his purpose yesterday to have submitted certain resolutions, which he should have done, but for the motion of the gentleman from Connecticut calling for information; after it was made he was willing to wait until all information was obtained that could be furnished. Suppose we go into a Committee of the Whole, what light can we expect from their deliberation? We can gain nothing. But let the call for information prevail; let us draw from the President such information as he may think it proper to give; and let us then refer that information to a Committee of the Whole, and they will be able to deliberate wisely. What use can it be to take a step from which no benefit can be derived? As to the call on the President, he will not give us any thing that is improper. How does the gentleman from Virginia know what light this information may throw on the subject? Is he prepared to say it will throw no light on this subject? If he is, Mr. D. said he himself was not. He might have ways of acquiring the secrets of the Cabinet; but for himself he had no such opportunities. Mr. D. concluded by declaring himself against the motion.

Mr. RANDOLPH was compelled again reluctantly to trespass on the indulgence of the House, to assure them, and the gentleman from Kentucky, that his motion did not comprehend a refusal to agree to the call for information made by the gentleman from Connecticut. After going into committee, they might, perhaps, either by a unanimous vote, or by that of a majority, agree to the resolution. Benefit might arise, and no mischief possibly could, from going into a Committee of the Whole.

Mr. HUGER must acknowledge that he could not understand the object of those who were for refusing this information. If they had any objection to asking the information, let them inform us what it is. And if they have no objection, why go into a Committee of the Whole; which, if gone into, must be with closed doors? The question alluded to in the British Treaty was very different from this. In that case, one part of the House thought they had a right to demand the information of the Executive, and that he was bound to deliver it; while the other part of the House neither acknowledged the right to demand, nor the obligation to obey. The present case was entirely different. We ask nothing but what the Executive shall think proper to furnish, we are as cautious as we can possibly be; we even go so far as to put words in the President's mouth, if he shall think there is any impropriety in giving the information. Gentlemen certainly have confidence in the Executive, that he will tell us if the information is improper to be furnished.

Mr. H. could not but express his surprise that the House had received no official documents on this important subject. He could not comprehend why Congress should not know the contents of the convention. If proper, we ought to have these documents; and if not proper, we ought to have

a reason for it. The country was in a state of serious alarm; and it might have a bad effect if something was not immediately done, and a disposition exhibited to act, in case it should prove necessary.

Mr. SMILIE said the gentleman, from South Carolina (Mr. HUGER) was incorrect, when he stated that, in the case of the British Treaty one set of gentlemen had contended for the right of the House to demand papers. If this had been so, the resolution then proposed would have been peremptory; whereas the fact was that it was qualified by an exception of such papers as the President might consider it improper to furnish. [Mr. SMILIE here quoted the journals, which confirmed his remark.]

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Mr. GREGG said it would be allowed that this was an important resolution, which related to an important subject. This was, he believed, the first instance in which a resolution allowed to be important, had been refused a reference to a Committee of the Whole. On this principle his vote would be decided. If the motion did not prevail he should then move that the resolution should be printed before it was acted upon.

Mr. GRISWOLD would not object to the reference if the object were to obtain a more full discussion of the resolution. He was generally in favor of such references, as the discussion was conducted in a Committee of the Whole on a freer scale than in the House. On this principle it was, that the call for papers respecting the British Treaty was referred to a Committee of the Whole. But it had not been referred to a Committee of the Whole on the state of the Union.

He, however, understood the object of gentlemen to be to refer the resolution to a Committee of the Whole, for the purpose of discussing it with closed doors. If that were the object, he should oppose it. For, he would say, nothing of secrecy could arise out of the discussion of this resolution. He did not wish that a resolution so important should be referred to a secret committee. If gentlemen mean to deny us this information, let them deny it in public. Let them not do it in a secret committee. Surely they can have no such unworthy motives.

As to the case of 1796, under the British Treaty, the ground of opposition was this: It was claimed that the House had a right to decide upon a treaty, and to establish this point papers were called for. And on the decision of the question, on the granting or refusing the application, depended the establishment of the right of the House to participate in the treaty-making power. This right was denied by those who voted against the call. But in this case there was no difference as to the power of the House. The President in his Message had expressly stated that the cession would have weight in the deliberations of the Legislature. This, then, being a case in which it is proper to legislate, shall we go to work blindfold, without having all the information possessed by the Executive, that it is proper we should possess? What do we know respecting the cession? Though made for more than one year, we have no information, except that contained in the Message, which barely mentions the fact. For these reasons Mr. G. hoped the motion would not prevail, as its avowed object was not for a more full discussion, but for the purpose of going into a secret committee. If gentlemen mean to deny us the information we ask, let the denial be public; and if they grant it, there is no reason against their doing it publicly.

Mr. RANDOLPH.—The gentleman from Connecticut tells us that this subject is referred to in the Message of the President, and that on it we are called by him to legislate. That subject has been referred to a Committee of the Whole; and yet, he says, it is improper to refer this resolution to the same committee. This may be logic; but I confess, if it is, I do not understand it. He says if the object of reference be for a more ample discussion, he will be in favor of it; but not so, if it be to send it to a secret committee. Does the gentleman mean to insinuate that the debates of this body are for the entertainment of the ladies who honor us with their presence; or that as soon as our doors are shut, our ears also are shut to all useful and necessary information? If the doors shall be closed, cannot we still agree to the resolution? However gentlemen may persist in the course they have taken, I shall not permit the warmth of their remarks, or that of my own feelings, to betray me into a debate on points which the House have determined shall be discussed with closed doors. For my own part, I am ready to declare that I have arguments to advance, that it is not my wish to advance with open doors.

Mr. BACON said the resolution simply called for information respecting the cession of the province of Louisiana to the French. He did not see the end to be answered by committing it. Is there any doubt that we shall not stand in need of information when we come to discuss points connected with this subject? It appeared to him they would. He was therefore against the reference.

Mr. S. SMITH.—The gentleman from Connecticut has candidly admitted that it is customary in such cases to make a reference; that he is not in favor of the reference being made to a committee with shut doors; but if the object were to obtain a free discussion, he would not object to it. He is told that a full and free discussion cannot be had without such a reference, and yet he persists in his hostility to the motion. He had been told so by the mover, and common sense would have told him so at first; yet he is for taking advantage of the mover, and for shutting out the arguments he has to urge. The gentleman is mistaken in his statement of the motives of the different sides of the House in the discussion on a call for papers, in 1796, when he represents one side as claiming a right to participate in the treaty-making power. He recollected it had been charged upon them; but they had denied it. We contended, said Mr. S., that when a treaty was formed, appropriating a large sum of money, we had a right to appropriate or not to appropriate the money; but we never assumed the right to say whether the treaty was concluded or not. Afterwards, gentlemen themselves, if he recollected right, moved a resolution that it was expedient to carry the treaty into effect, by which they did admit the right of the House. Mr. S. said he had no previous knowledge of what the gentleman from Virginia meant by his motion; he

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might perhaps wish to amend the resolution; but when he says he has arguments that he cannot urge without shut doors, he trusted that indulgence would be allowed him, or there would be a denial of justice.

Mr. DANA said, there was a magic of language, to those unaccustomed to parliamentary language, in the House resolving itself into a committee, and that committee returning itself back into the House, both composed of the same members, that made the proceedings of public bodies appear ridiculous. But there were substantial benefits derived from the observance of these forms. There was a fuller and freer discussion; every member spoke as often as he chose, and they enjoyed the Speaker's advice. There were, besides, two discussions and decisions, instead of one. He admitted, therefore, the propriety of such procedure in all cases where there was an important principle involved. But in this instance there was no important principle to discuss. There was an important principle involved in the famous question of 1796. It was therefore right to refer it to a Committee of the Whole. He did not know what principle was to be discussed on this reference, unless it was the want of information. This he most sensibly felt; and those gentlemen who also felt it, might, he thought, be indulged by those who possess all information on the subject. If any gentleman, however, will say that any important principle is involved in the resolution, he was ready to go into Committee of the Whole, though not with closed doors.

The question was then taken by yeas and nays on Mr. RANDOLPH'S motion, to refer the resolution of Mr. GRISWOLD to a Committee of the Whole on the state of the Union, and carried—yeas 49, nays 39, as follows:

YEAS.—Willis Alston, John Archer, Theodorus Bailey, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, John Dawson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Samuel L. Mitchill, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, jr., John Smilie, John Smith, (of New York,) John Smith, (of Virginia,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abraham Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, and Thomas Wynns.

NAYS.—John Bacon, Phaniel Bishop, Thos. Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas T. Davis, John Dennis, Wm. Dickson, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, William Helms, Joseph Hemphill, Archibald Henderson, Benjamin Huger, Samuel Hunt, Thomas Lowndes, Ebenezer Mattoon, Lewis R. Morris, Thomas Morris, James Mott, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, William Shepard, John Cotton Smith, John Stanley, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, Thos. Tillinghast, George B. Upham, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

On motion of Mr. GRISWOLD, the House immediately went into Committee of the Whole on the state of the Union.

Mr. RANDOLPH rose, and observed that he held in his hands certain resolutions connected with the Message of the President, relative to the late proceedings at New Orleans, the discussion of which had been ordered to be carried on with closed doors. He asked the decision of the question, whether, previously to offering his resolutions, the doors ought not to be closed? The resolutions he meant to submit grew out of the Message. If the House, however, insisted upon their being then read, he had no indisposition to read them.

The CHAIRMAN considered the committee as incompetent to clearing the galleries. He thought it must be the act of the House.

Mr. DAWSON inquired if the same rules that applied to the House, did not also apply to Committees of the Whole?

Mr. RANDOLPH called for the reading of the President's Message respecting New Orleans.

Mr. GRISWOLD said there was other business, not requiring secrecy, referred to the committee.

Mr. RANDOLPH repeated his call for the reading of the President's Message.

The CHAIRMAN asked what Message?

Mr. RANDOLPH replied, the confidential Message.

Mr. GRISWOLD said that could not be read with open doors.

The CHAIRMAN said the doors could not be closed without an order of the House.

Mr. S. SMITH observed that it had been customary to clear the galleries before the House went into committee. To save time, he would move that the committee should rise, in order to obtain an order of the House to that effect.

Mr. GRISWOLD hoped the committee would not rise. The business he had proposed was of a public, not of a private nature. It was also of a pressing nature, and ought not to be postponed for any other business.

Mr. DANA hoped, indeed, for the honor of the House, they would not exhibit the spectacle of wasting time in going into committee and then coming out of it without doing any thing, but

would proceed to the public business.

Mr. RUTLEDGE.—The gentleman from Virginia holds in his hands resolutions that require secrecy. After deciding on the motion of the gentleman from Connecticut, he will not be precluded from offering these resolutions.

Mr. EUSTIS said if the House had resolved itself into a committee for the express purpose of taking into consideration the resolution of the gentleman from Connecticut, it would be proper to give it the preference over any other business; and in that case he should have been as ready at this moment as at any other to offer his objections to it. But if it were understood that the House had resolved itself generally into a Committee on the state of the Union, one gentleman from Virginia having made a motion, and another gentleman from Connecticut having afterwards made another motion, that made by the last gentleman being junior in point of time ought to be last attended to. The other gentleman's motion was first in course; and if the gentleman who offered it desired the galleries to be cleared, he had an undoubted right to an order to that effect.

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Mr. MACON (Speaker) remarked that a Committee of the whole House was one committee, and a Committee of the whole House on the state of the Union another committee. They were distinct committees. The last was never formed for special purposes. He did not recollect that this had ever been done. Whereas the other committee was always formed for a special purpose. The difficulty in this case had arisen from referring the confidential Message to a Committee of the Whole on the state of the Union. He believed it would be well to rise, and separate the two subjects that had been referred to the Committee on the state of the Union.

Mr. GRISWOLD did not understand what the gentleman from Massachusetts meant by priority of motion. The Chairman had determined that the motion of the gentleman from Virginia was not in order, as it could not be submitted to a public committee. After this disposition of that motion, none remained before the committee other than his own. In point of priority, he rose, therefore, to have his resolution then decided upon. With regard to the proposition of the honorable Speaker, he did not see any reason for it. Was it not as well to decide on this resolution in this committee as in any other committee? Why, then, rise for the purpose of referring it to a secret committee?

Mr. S. SMITH said, the gentleman from Massachusetts meant by his remarks that the Message of the President had precedence. The gentleman from Connecticut was only now urging what had been decided against him in the House. He thinks he has now an advantage, and presses it.

Mr. S. said, he had not a doubt that the gentleman from South Carolina (Mr. RUTLEDGE) is very sincere in his opinion, that, if we will agree to submit all power to them, they will indulge us by agreeing to certain subordinate points. But gentlemen will excuse us. We have already taken great pains to divest them of power, and we are not yet disposed to return it into their hands.

We are of opinion that the Message ought to be discussed with closed doors; that is the intention of the motion; let us not take advantage of those who have arguments to offer which they wish not to submit with open doors; let the committee rise, and the galleries be cleared.

Mr. DANA, in one point, fully agreed with the gentleman from Maryland. They had taken great pains to get power. But he regretted that any political party allusion whatever had been made on this subject. He had supposed it so important, so deeply interesting to all America, that he had hoped all spirit of party would have slept during our deliberations on it; and that we should have shown that we entertained but one sentiment, and were ready, if necessary, to extend one arm in defence of our invaded rights.

Mr. L. R. MORRIS expressed his disagreement with the Speaker on a point of order—

When the question was taken on the rising of the committee, and carried in the affirmative—ayes 49, noes 37.

The committee accordingly rose, and the Chairman reported that they had come to no resolution.

A motion was made to adjourn, on which Mr. GRISWOLD called the yeas and nays; which were—yeas 38, nays 51.

### ***Navigation of the Mississippi.***

#### **[SECRET SESSION.]**

The House was then cleared of all persons, except the members and the Clerk: Whereupon the House resumed the consideration of a confidential communication from the PRESIDENT OF THE UNITED STATES, received the thirty-first ultimo.

*Ordered*, That the Committee of the whole House on the state of the Union, to whom was referred the Message of the PRESIDENT OF THE UNITED STATES of the twenty-second and thirtieth ultimo, be discharged from the consideration thereof; and that the said Message, together with the documents transmitted therewith, be committed to a Committee of the whole House tomorrow.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That this House receive, with great sensibility, the information of a disposition in certain officers of the Spanish Government at New Orleans, to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations.

That, adhering to the humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty; and relying with perfect confidence on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States; holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries, and the rights of navigation and commerce through the river Mississippi, as established by existing treaties.

*Ordered*, That the said motion be referred to the Committee of the whole House last appointed.

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**THURSDAY, January 6.**

***Cession of Louisiana.***

**[PUBLIC SESSION.]**

Mr. GRISWOLD moved that the House should resolve itself into a Committee of the Whole on his resolution respecting Louisiana.

Mr. DAWSON was opposed to the motion, for reasons before assigned.

Mr. GRISWOLD said the gentleman did not understand what he had proposed. It had been the wish of gentlemen to separate the consideration of his resolution from other subjects referred to the Committee of the Whole on the state of the Union. For which purpose he had been willing to refer it to a Committee of the Whole. But he was averse to referring it to a secret committee; as he did not perceive its connection with any subject that required secrecy. The discussion on it ought, in his opinion, to be public. It was not necessary for him to repeat that it was of a pressing nature. It respected the obtaining information on a subject, he would say, of greater importance than any which could come before Congress that session. One third of the session was gone, and yet the Legislature had no information before them. He hoped there was no disposition entertained by gentlemen to embarrass this proposition with points unconnected with it. The proposition was extremely simple. Called upon by the President to legislate on the subject of the cession of Louisiana, we do not know the precise state of that cession. To legislate correctly, we want to be informed of all the circumstances. If gentlemen are disposed to deny us this information, let the denial be public. Do not let them refer this motion to a secret committee, where they may deny us the information we ask on reasons which we cannot divulge. Mr. G. concluded by calling for the yeas and nays.

Mr. S. SMITH asked if this were not the precise motion decided yesterday by the House? He thought it had been referred to a Committee of the Whole. He had considered it as having taken that course. When we go into committee the gentlemen will see whether we shall refuse them the information. Perhaps we shall see that it is of such a nature as we ought to possess. He did not himself know how that was; nor did he mean to commit himself by any remarks which he had made. He trusted gentlemen would remember their vote yesterday, and not suffer themselves to be put out of their course by this extraordinary mode of conducting business.

Mr. LOWNDES demanded whether, even if the motion were the same, there was any impropriety in putting it again to-day; and whether it were not perfectly consistent with the rules of order to go into a committee, and take up the resolution? If there ever was a resolution offered to that House which ought to obtain a unanimous vote, it was that of his honorable friend from Connecticut; which proposes simply the calling for such information as the President might see fit to give on a most important subject that had excited the sensibility of the whole nation. The President himself, in his Message, alludes to the subject as one which may require Legislative interposition, and gentlemen persist in refusing us this information. It was a most extraordinary circumstance in the annals of the United States, that, notwithstanding the magnitude of the cession of Louisiana, the length of time since it was made, and the necessary consequence of having a new and powerful neighbor on our frontier, we had yet no official information on the subject. The President in his Message really tells us nothing. He says "the cession of the Spanish province of Louisiana to France, which took place in the course of the late war,"—this we had been told long before by the public prints, and in a discussion before the British Parliament—but he goes on and says—"will, if carried into effect, make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations of the Legislature connected with that subject." To this the understanding of every schoolboy is competent. It was really surprising that gentlemen should wish to reject such a call as this. It was not probable that the President had been so unmindful of his duty as not to have demanded an explanation through our Ministers at the Court of Spain, or at Paris. If he has this information, and it is of a nature proper to be known to us, we ought immediately to obtain it, that we may not be slumbering at our posts on an infraction of our rights.

Mr. L. suspected gentlemen had not correctly attended to the resolution. It only requests the President to lay such information before the House as he may think proper. Are gentlemen then afraid to trust to the discretion of the President? Are they apprehensive lest he should communicate that which is improper? He hoped they had more confidence in the Executive. He

thought this call should precede any resolutions. He could not disconnect the shutting of the port of New Orleans from the cession of Louisiana. There appeared to be a natural connection between these two events. He was afraid that the shutting the port was ominous of the disposition of Spain to cede the province to France, independently of any encumbrances she may have imposed upon herself. He was afraid France in this transaction would consult her interests and convenience, and not our rights. We well knew the grounds on which that nation interpreted treaties, and we had no reason from that knowledge to repress our fears. An observation of the gentleman from Virginia had given him great uneasiness. That gentleman had told us, if Spain had ceded Louisiana to France she had a right to cede it. This Mr. L. was not prepared to say. He did not think Spain had a right to give to America what she pleased; much less give her a new neighbor, under circumstances different from those by which she held the province. He was not, however, then disposed to discuss the abstract question involved in this subject. He trusted the resolution calling for information would be agreed to. The House need not fear that, in asking this information, they would not speak the sense of the people; and, if other measures were necessary, they would also, in adopting them, speak the sense of the nation.

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Mr. BACON said it was not uncommon to hear of extraordinary occurrences in that House. One mode of reasoning yesterday had great weight, that asserted a connection between the resolution and the subject of New Orleans, which had been taken up and referred to a committee with closed doors. One subject appeared to him to be not only nearly connected, but to form an essential part of the other. For what purpose this resolution should be separated from the general subject, he could not conceive. Why do we want information, but that we may have a more clear view of the general subject? He could not see any detached purpose for which it was required. Why then divide it into little detached parts? Until he could hear reasons for such a division, he should be against the reference.

Mr. HEMPHILL observed that the gentleman was mistaken in what passed yesterday. The gentleman from Maryland had first stated the subjects as similar; that ground was afterwards abandoned, and they were considered as distinct. There were only two points connected with the subject before the House in which documents could be required or secrecy necessary. The one related to the cession of Louisiana; the other to the shutting the port of New Orleans. The former, though not referred to a committee, was as important as the latter, which had been referred. In the last case we deemed it important to have and request papers. The resolution before them related to the first point; it had been deemed of sufficient importance to refer it to a committee, and this afforded good reasons for calling for papers respecting the cession. He begged leave to refer to the Message, which says the cession "will, if carried into effect, make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations of the Legislature connected with that subject." The House will perceive that the language of the Message is hypothetical—the words are, "if carried into effect." How then can we deliberate on this subject, unless we know the degree of probability there is, that it will be carried into effect? A knowledge of the circumstances necessary to ascertain this, appeared to be absolutely indispensable.

If likely to be carried into effect, the next question is, as to the time when it will be carried into effect. When these two inquiries were solved, another naturally offered itself: Is France to take the province subject to existing treaties, or as she shall receive it at the time of delivery? All these circumstances it was necessary for Congress to know, before they could act correctly.

What necessity there was for secrecy in the discussion of this resolution, Mr. HEMPHILL could not conceive. All the information we have on the subject is contained in the President's Message, which every person in the United States knows as well as we do. It appeared to him that when their deliberations turned on facts which every body knew, they ought to be public. His ideas of secrecy were these: that policy might require certain facts to be kept secret for a time; but, when made known, their arguments on them ought not to be secret. In this opinion he was strengthened by the rule of the House. [Mr. H. here read the rule on that point, which prescribes that the galleries shall be cleared whenever a confidential communication shall be received from the President, or whenever the Speaker or any other member shall inform the House that he has communications to make which he conceives ought to be kept secret.] Mr. H. asked on which branch of this rule could the arguments of gentlemen be predicated? The President had not sent them a confidential communication, nor had any member said he had communications to make which he conceived ought to be kept secret. The information referred to in the rule meant facts, and not arguments drawn from facts. He concluded by saying he saw no occasion whatever for discussing this proposition with closed doors.

Mr. DAWSON.—The gentleman from South Carolina (Mr. LOWNDES) says there is a material connection between the shutting the port of New Orleans and the cession of Louisiana. After, then, that part of the discussion which related to New Orleans had been ordered to be conducted with shut doors, how proper was it in him to introduce into debate a subject intimately connected with it? His opposition to the present motion did not arise from an indisposition fully to discuss the subject to which it referred; but from an indisposition to delay the discussion of the motion offered by his colleague. Against the present motion he should vote, because it promised nothing useful, and might be mischievous. We have been told that this subject is important and pressing. That it was important he felt; but he did not believe it was pressing. He could say, if the time should ever arrive when it became that House to act, this was not the time. When the time did arrive, he was prepared to act. Gentlemen were very anxious on this subject. He rejoiced to witness their anxiety. But he and his friends were not now to hear who were the friends of the Western country. The people of that country doubted not the protection of the Government. They

were warmly attached to the Government, and knew that every thing would be done, that ought to be done, to protect and defend their rights.

Mr. BACON said, if he understood the gentleman from Pennsylvania, (Mr. HEMPHILL,) he perfectly agreed with him in opinion, that this resolution was connected with the subject of New Orleans. He agreed with him as to their inseparable connection. But the only difference was that they inferred opposite consequences from the same premises. He, Mr. B., contended that the resolution made a part of the same general subject, and ought not to be divided from it. They say it ought to be divided.

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Mr. HEMPHILL, replied that he had spoken as plainly as he could. He had said the subjects were distinct.

Mr. GODDARD.—The gentleman from Massachusetts yesterday told us the call for information ought to be public, though the information itself should be secret. This reasoning had been satisfactory to him then; he had hoped it would have also proved so to-day. But it appears that he is now for sending us to a secret committee. Mr. G. said in his opinion, the call ought to be public, whatever the nature of the information might be. This information gentlemen will either deny or grant. They say it is not to be denied. Why then go into a committee? And if granted, why not grant it without assigning reasons, as well as with assigning them? Are we to be told by the gentleman from Virginia, there is no occasion for this call; that we have information enough? How does that honorable gentleman get his information? If from the cabinet, are we, the representatives of the people, to obtain it from him? Surely this will be degrading to our characters. We may believe it is true as coming from him, but, as representatives, we should spurn at receiving it in such a channel. We want official information, but gentlemen say they want to go into secret committee on this resolution. What will be the good of this? Though he could not say what was done in secret yesterday, he might say what had not been done. They had done nothing; and if they went into secret session again, the consequence would be the same.

Mr. RANDOLPH felt extremely reluctant to rise in this stage of the discussion, but he deemed it time to repel insinuations so frequently thrown out as perhaps to gain some credit, if they were permitted to pass entirely unnoticed. We are averse to take up the motion of the gentleman from Connecticut, and wherefore? Because, as our opponents would fain have it believed, we are insensible to the vast interest affected by the obstruction of the Mississippi? No, sir, because we are alive to this delicate and momentous subject; because we wish to act upon it; because we wish to go into committee on the confidential Message of the Executive; because the information required by the motion before you is not necessary to determine us in the course which we ought, and, I trust, will pursue; and because these preliminary questions, whatever be their object, are, in effect, only calculated to retard and to embarrass the decision of this House on this great question. Sir, I am content that gentlemen should repeat after each other the trite observations which have been so often reiterated of the magnitude of the object in question. I am content that they should make the best possible display of their ardor on this occasion. But wherefore this exhibition of a zeal so inordinate as to arrogate to itself all sensibility to the national welfare? Since gentlemen insist upon it, since they provoke the discussion, I must request to be indulged in some remarks on the history of this subject. And in reply to the gentleman from Connecticut, (Mr. GODDARD,) I must be permitted to observe that such of my information as may have been derived from the Executive is equally accessible to every member of this House, and I believe to every reputable citizen in the Union, who chooses to apply for it. That, however, which I am about to present, is derived from a source accessible to the whole world. It is to be found in a document of inestimable value, (the debates of the Virginia Convention in 1788,) and might truly be said to be official. It is an account given in his official character of member of Congress, and under the old confederation, by that able and eminent man, that faithful and illustrious public servant, the late Governor of Virginia, to the Convention of that State, at their requisition. At his own suggestion the Legislature of the State had declined to insist upon it. To the Convention it was given, (however reluctantly,) as to a paramount authority. [Here Mr. E. read Mr. Monroe's speech.]<sup>[73]</sup>

"After some desultory conversation, Mr. MONROE spoke as follows: Mr. Chairman—My conduct respecting the transactions of Congress upon this interesting subject, since my return to the State, has been well known to many worthy gentlemen here. I have been often called upon before this, in a public line, and particularly in the last Assembly, whilst I was present, for information in regard to these transactions; but have heretofore declined it, and for reasons that were held satisfactory. Being amenable, upon the principles of the Federal compact, to the Legislature, for my conduct in Congress, it cannot be doubted, if required, it was my duty to obey their directions; but that honorable body thought it best to dispense with such demand. The right in this Assembly is unquestionably more complete, having power paramount to that; but even here I could wish it had not been exerted as I understand it to be, by going into committee for that purpose. Before, however, I enter into this subject, I cannot but observe, it has given me pain to hear it treated by honorable gentlemen in a manner that has appeared not altogether free from exception. For they have not gone into it fully, and given a proper view of the transaction in every part, but of those only which preceded, and were subsequent to that, which had been the particular object of inquiry; a conduct that has seemed too much calculated to make an impression favorable to their wishes in the present instance. But, in making this observation, I owe it to those gentlemen to declare, that it is my opinion such omission has proceeded, not

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from intention, but their having forgotten facts, or to some cause not obvious to me, and which I make no doubt they will readily explain.

"The policy of this State, respecting this river, has always been the same. It has contemplated but one object, the opening it for the use of the inhabitants, whose interest depended on it; and in this she has, in my opinion, shown her wisdom and magnanimity. I may, I believe, with propriety say, that all the measures that have at any time been taken by Congress for that purpose, were adopted at the instance of this State. There was a time, it is true, sir, when even this State, in some measure, abandoned the object, by authorizing its cession to the Court of Spain. But let us take all circumstances into view, as they were at that time, and I am persuaded it will by no means show a departure from this liberal and enlightened system of policy, although it may manifest an accommodation to the exigencies which pressed on us at the time. The Southern States were overrun, and in possession of the enemy. The governments of South Carolina and Georgia were prostrate, and opposition there at an end. North Carolina made but a feeble resistance; and Virginia herself was greatly harassed by the enemy in force at that time in the heart of the country, and by impressments for her own and the defence of the Southern States. In addition to this, the finances of the United States were in a deplorable condition, if not totally exhausted; and France, our ally, seemed anxious for peace; and as the means of bringing the war to a more happy and speedy conclusion, the object of this cession was the hopes of uniting Spain in it with all her forces. If I recollect aright, too, at this moment, the Minister of the United States, at the Court of Madrid, informed Congress of the difficulty he found in prevailing upon that Court to acknowledge our independence, or take any measure in our favor, suggested the jealousy with which it viewed our settlements in the Western country, and the probability of better success, provided we would cede the navigation of this river, as the consideration. The latter circumstances were made known to the Legislature, and they had their weight. All inferior objects must yield to the safety of the society itself. A resolution passed to that effect. An act of Congress likewise passed; and the Minister of the United States had full authority to relinquish this valuable right to that Court, upon the condition above stated. But what was the issue of this proposition? Was any treaty made with Spain that obtained any acknowledgment of our independence, although at war with Great Britain; and such acknowledgment would have cost her nothing? Was a loan of money accomplished? In short, does it appear that even Spain herself thought it an object of any importance? So soon as the war ended, this resolution was rescinded. The power to make such a treaty was revoked. So that this system of policy was departed from, only for a short time, for the most important object that can be conceived, and resumed again as soon as it possibly could be.

"After the peace, it became the business of Congress to investigate the relation of these States to the different powers of the earth, in a more extensive view than they had hitherto done, and particularly in the commercial line; and to make arrangements for entering into treaties with them on such terms as might be mutually beneficial for each party. As the result of the deliberations of that day, it was resolved, 'That commercial treaties be formed, if possible, with said powers, those of Europe in particular, Spain included, upon similar principles; and three Commissioners, Mr. Adams, Mr. Franklin, and Mr. Jefferson, be appointed for that purpose.' So that an arrangement for a treaty of commerce with Spain had already been taken. Whilst these powers were in force, a representative from Spain arrived, authorized to treat with the United States on the interfering claims of the two nations, respecting the Mississippi, and the boundaries, and other concerns, wherein they were respectively interested. A similar commission was given to the honorable Secretary of Foreign Affairs, on the part of the United States, with these ultimatata, 'That he enter into no treaty, compact, or convention whatever, with the said representative of Spain, which did not stipulate our right to the navigation of the Mississippi, and the boundaries as established in our treaty with Great Britain.' And thus the late negotiation commenced, under auspices, as I supposed, very favorable to the wishes of the United States; for Spain had become sensible of the propriety of cultivating the friendship of these States. Knowing our claim to the navigation of the river, she had sent a Minister hither principally to treat on that point; and the time would not be remote when, under the increasing population of the country, the inhabitants would be able to open it without our assistance or her consent. These circumstances being considered, was it not presumable she intended to make a merit of her concession to our wishes, and to agree to an accommodation upon that subject, that would not only be satisfactory, but highly pleasing to the United States? But what was the issue of this negotiation? How was it terminated? Has it forwarded the particular object in view, or otherwise promoted the interests and the harmony of the States, or any of them! Eight or ten months elapsed without any communications of its progress to Congress. At length a letter was received from the Secretary, stating that difficulties had arisen in his negotiation with the representative of Spain, which, in his opinion, should be so managed as that even their existence should remain a secret for the present; and proposing that a committee be appointed with full power to direct and instruct him

in every case relative to the proposed treaty. As the only ultimata appointed in his instructions respected the Mississippi and the boundaries, it readily occurred that these occasioned the difficulties alluded to, and were those he wished to remove. And, for many reasons, this appeared, at least to me, an extraordinary proposition. By the Articles of Confederation nine States are necessary to enter into treaties. The instruction is the foundation of the treaty; for if it is formed agreeable thereto, good faith requires that it be ratified. The practice of Congress has also been always, I believe, in conformity to this idea. The instructions under which our commercial treaties have been made, were carried by nine States. Those under which the Secretary now acted were passed by nine States. The proposition, then, would be, that the powers which, under the constitution, nine States only were competent to, should be transferred to a committee, and the object thereby to disengage himself from the ultimata already mentioned in his existing instructions. In this light the subject was taken up, and on these principles discussed. The Secretary, Mr. Jay, being called before Congress to explain the difficulties mentioned in his letter, presented to their view the project of a treaty of commerce, containing, as he supposed, advantageous stipulations in our favor, in that line; in consideration for which we were to contract to forbear the use of the navigation of the river Mississippi for the term of 25 or 30 years, and earnestly advised our adopting it. The subject now took a decided form; there was no further ambiguity in it, and we were surprised, for reasons that have been already given, that he had taken up the subject of commerce at all. We were greatly surprised it should form the principal object of the project, and that a partial or temporary sacrifice of that interest, for the advancement of which the negotiation was set on foot, should be the consideration proposed to be given for it. But the honorable Secretary urged, that it was necessary to stand well with Spain; that the commercial project was a beneficial one, and should not be neglected; that a stipulation to forbear the use contained an acknowledgment, on her part, of the right in the United States; that we were in no condition to take the river, and therefore gave nothing for it; with other reasons which, perhaps, I have forgotten; for the subject in detail has nearly escaped my memory. We differed with the honorable Secretary, almost in every respect. We admitted, indeed, the propriety of standing well with Spain, but supposed we might accomplish that end, at least, on equal terms. We considered the stipulation to forbear the use, as a species of barter, that should never be countenanced in the councils of the American States, since it might tend to the destruction of the society itself; for a forbearance of the use of one river, might lead to more extensive consequences; to that of the Chesapeake, the Potomac, or any other of the rivers that emptied into it. In short, that the councils of the confederacy should be conducted with more magnanimity and candor, should contemplate the benefit of all parts upon common principles, and not the sacrifice of one part for that of another. There appeared to us a material difference between stipulating by treaty to forbear the use, and not being able to open the river. The former would be considered by the inhabitants of the Western country as an act of hostility; the latter might be justified by our inability. And, with respect to the commercial part of the project, we really thought it an ill-advised one on its own merits solely.

"Thus was this project brought before Congress, and so far as I recollect, in this form, and upon these principles. It was the subject of tedious and lengthy discussion in that honorable body. Every distinct measure that was taken I do not now remember, nor do I suppose it of consequence. I have shown the outlines of the transaction, which is, if I apprehend rightly, all that the committee wish to possess. The communications of the Secretary were referred to a Committee of the whole House. The Delegates of the seven easternmost States voted that the ultimata in the Secretary's instructions be repealed; which was reported to the House, and entered on the journal by the Secretary of Congress, that the question was carried. Upon this entry, a constitutional question arose to this effect: 'Nine States being necessary, by the Federal Constitution, to give an instruction; and seven having repealed a part of an instruction so given, for the formation of a treaty with a foreign power, so as to alter its import, and authorize, under the remaining part thereof, the formation of a treaty, on principles altogether different from what the said instruction originally contemplated, can such remaining part be considered as in force, and constitutionally obligatory?' We pressed on Congress for a decision on this point often, but without effect. Notwithstanding this, I understood it was the intention of the Secretary to proceed and conclude a treaty, in conformity to his project, with the Minister of Spain. In this situation I left Congress. What I have since heard, belongs not to me to discover. Other gentlemen have more ample information of this business, in the course it has taken, than I can possibly have been able to obtain; for, having done my duty whilst there, I left it for others who succeeded me to perform theirs, and I have made but little further inquiry respecting it. The animated pursuit that was made of this object, required, and, I believe, received, as firm an opposition. The Southern States were on their guard, and warmly opposed it. For my part, I thought it my duty to use every effort in Congress for the interest of the Southern States. But so far as it depended on me, with my official character, it ceased. With

many of those gentlemen, to whom I always considered it as my particular misfortune to be opposed, I am now in habits of correspondence and friendship; and I am concerned for the necessity which has given birth to this relation.

"Whether the Delegates of those States spoke the language of their constituents; whether it may be considered as the permanent interest of such States to depress the growth and increasing population of the Western country, are points which I cannot pretend to determine. I must observe, however, that I always supposed it would, for a variety of reasons, prove injurious to every part of the Confederacy. These are well understood, and need not be dilated on here. If, however, such should be the interest of seven States, let gentlemen contemplate the consequences in the operation of the Government, as it applies to this subject. I have always been of opinion, sir, that the American States, to all national objects, had, in every respect, a common interest. Few persons would be willing to bind them together by a stronger or more indissoluble bond, or give the National Government more power than myself. I only wish to prevent it from doing harm, either to States or individuals; and the rights and interests of both, in a variety of instances, in which they are now left unprotected, might, in my opinion, be better guarded. If I have mistaken any facts, honorable gentlemen will correct me. If I omitted any, and it has not been intentional, so I shall be happy with their assistance to supply the defect.

"Mr. Monroe added several other observations, the purport of which was, that the interest of the Western country would not be as secure under the proposed constitution as under the Confederation; because, under the latter system, the Mississippi could not be relinquished without the consent of nine States, whereas by the former, he said, a majority of seven States could yield it. His own opinion was, that it would be given up by a majority of the Senators present in the Senate, with the President, which would put it in the power of less than seven States to surrender it. That the Northern States were inclined to yield it. That it was their interest to prevent an augmentation of the Southern influence and power; and that as mankind in general, and States in particular, were governed by interest, the Northern States would not fail of availing themselves of the opportunity given them by the constitution of relinquishing that river, in order to depress the Western country, and prevent the Southern interest from preponderating.

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"Mr. HENRY<sup>[74]</sup> then rose and requested that the honorable gentleman (Mr. Monroe) would discover the rest of the project, and what Spain was to do on her part, as an equivalent for the cession of the Mississippi.

"Mr. MONROE.—Mr. Chairman, I do not thoroughly recollect every circumstance relative to this project. But there was to be a commercial intercourse between the United States and Spain. We were to be allowed to carry our produce to the ports of Spain, and the Spaniards to have an equal right of trading hither. It was stipulated that there should be a reciprocity of commercial intercourse and benefits between the subjects of Spain and the citizens of the United States. The manufactures of Spain were to be freely imported and vended in this country, and our manufactures to be carried to Spain, &c., without obstruction, and both parties were to have mutual privileges in point of commercial intercourse and connection. This, sir, is the amount of the project of Spain, which was looked upon as advantageous to us. I thought myself that it was not. I considered Spain as being without manufactures, as the most slow in the progress of arts, and the most unwise, with respect to commerce, of all nations under the sun, (in which respect I thought Great Britain the wisest.) Their gentlemen and nobles look on commerce with contempt. No man of character among them will undertake it. They make little discrimination with any nation. Their character is to shut out all nations, and exclude every intercourse with them, and this would be the case with respect to us. Nothing is given to us by this project, but what is given to all other nations. It is bad policy, and unjustifiable on such terms to yield that valuable right. Their merchants have great stocks in trade. It is not so with our merchants. Our people require encouragement. Mariners must be encouraged. On a review of these circumstances, I thought the project unwise and impolitic."

Having completed the reading, Mr. R. resumed his remarks. I have, said he, to ask pardon of the House for detaining them with the reading of so lengthy a document. That it contains perhaps the only correct historical detail extant of this truly curious transaction, must constitute my apology.

I will now ask, Mr. Speaker, who ever have been, and still are, the unshaken friends of the navigation of the Mississippi, and of the Western interests of this Union? It is not my wish, sir, on this occasion, to cast gentlemen opposed to us into the shade—to throw them into the background. All we ask is an equal share of confidence in our zeal to assert this great right, until we shall have proved ourselves unworthy of it. What is there then exhibited from the earliest period of our history? What fact has transpired which renders us undeserving of that confidence, or which entitles gentlemen on the other side of the House exclusively to it? Shall we then silently submit to the intolerant assumption on their part of all feeling for this important right, involving the vital interests of our country? Shall we sit down contented under the imputation of lukewarmness in this cause? or, shall we tell those gentlemen that under every circumstance, and in all situations, with closed doors, as well as with open doors, we have been, are, and ever will

be, the unalterable supporters of the free navigation of the Mississippi?

The sentiments which have been displayed in the course of this proceeding, present a phenomenon in the history of what are termed regular Governments. When an Administration have formed the design of subverting the public liberties—of enriching themselves or their adherents out of the public purse, or of crushing all opposition beneath the strong hand of power—war has ever been the favorite ministerial specific. Hence have we seen men in power too generally inclined to hostile measures, and hence the opposition have been, as uniformly, the champions of peace—not choosing to nerve with new vigor (the natural consequence of war) hands, on whose hearts or heads they were unwilling to bestow their confidence. But how shall we account for the exception which is now exhibited to this hitherto received maxim? On the one part the solution is easy. An Administration under which our country flourishes beyond all former example—with no sinister views—seeking to pay off the public encumbrances, to lessen the public burdens, and to leave to each man the enjoyment of the fruits of his own labor, are, therefore, desirous of peace, so long as it can be preserved consistently with the interests and honor of the country. On the other hand, what do you see? Shall I say an opposition sickening at the sight of the public prosperity, seeking through war, confusion, and a consequent derangement of our finances, that aggrandizement which the public felicity must for ever forbid? No, sir, my respect for this House and for those gentlemen forbids this declaration, whilst, at the same time, I am unable to account on any other principle for their conduct. Mr. R. concluded by saying, that he had forborne these observations until they were extorted from him. He had hoped that gentlemen would have let the business take its course, after the decision of yesterday, and that the House would have gone into committee on the confidential Message; but gentlemen had insisted on discussing the merits of the navigation on a preliminary question. The business having taken that turn, he thought it due to himself and friends to repel the odium which it was endeavored to attach to them.

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Mr. DANA thought it was not necessary on this subject to enter into a history of political parties in this country. And when the gentleman from Virginia undertook to give a history, he had no idea that he was about giving details of secret history. He had supposed he was about offering a general view of the subject. He did not know that it was to be stated who were friendly or unfriendly to the rights of our Western citizens, much less that there was an established hereditary hostility to them. He had supposed that all the gentlemen on that floor had expressed the wishes of the people; he had supposed there was but one opinion; he had heard of no insinuation of difference. The only difference which he had thought existed was as to the means to be used, and the time when those means should be carried into effect. But as to the natural right, and the ultimate enjoyment of the nation to the free navigation of the Mississippi, he asked what gentleman had charged another with any doubts on that? And when we all agree in this, whence the necessity of calling up the animosities of party? May not gentlemen express their opinions in favor of decided measures, when the voice of the nation had been so audibly expressed, without such expression being construed into a censure upon others? When, too, the opinions of other gentlemen on fundamental points coincided with your own? Is it necessary, when the whole nation is alive, to be moderate in the expression of our ideas? If we do not come from that part of the Union more immediately affected by the late measures at New Orleans, are we therefore to be indifferent and unconcerned spectators of events? If, standing here as Representatives of the United States, we are not at liberty to attend to any thing not confined to the trifling district of country we may each of us represent, miserable is the ground on which we stand, and humble indeed our condition! But let me say, even on this ground, the ship-owners and the merchants on the Atlantic are deeply interested. Our Western citizens are certainly more deeply interested in the freedom of the Mississippi; but it goes to the great interests of navigation generally. They feel it most; but we feel it much.

This is all I deem it necessary, said Mr. D., to observe on the remarks of the gentleman from Virginia on his historical detail. Sir, this ought not to be made a party question. With respect to the motion before the House, my colleague has drawn it in terms the most respectful. Gentlemen propose to refer it to a Committee of the Whole. To this we object, because we want the information promptly. But the votes of gentlemen prevail, and it is referred. Our next step is to refer it immediately, to avoid delay. To obtain information, full and prompt, is the end of our endeavors. Why are we told of the inconsistency of our means? The course we pursue is plain and direct; that which carries us steadily to our obtaining information; and if the House will not give it to us in the way we wish, we are for taking it in the best way we can. Let it be remarked, that, if no obstacles had taken place at New Orleans, the subject of the cession of Louisiana is referred to in the Message of the President. Is not the information, we ask, important, in the general view, of who are to be our neighbors; where, from the dispersed population of our citizens, the Union is most vulnerable? And in this light it would have been proper to get the information, even if the measures at New Orleans had not occurred. It makes no difference whether those measures are the measures of Spain or of France. The two points were not necessarily connected, though I admit that the proceedings at New Orleans have a bearing on the general subject. With regard to the measures at New Orleans, we have information, and have obtained it. That information has been referred to a Committee of the Whole. We now ask information respecting the cession; and having got it, let us refer that also, and deliberate on the measures proper to be taken. Cannot the logical talents of the gentleman from Massachusetts (Mr. BACON) distinguish between information and measures? Will he say that premises and conclusions are the same thing? This information is that on which we are to deliberate. I had supposed facts necessary to legislate on. I had thought there was, to be sure, a connection between one step and another which follows. But will the gentleman say, that whenever we ask information, we conclude upon measures?

The yeas and nays were then taken on the call of Mr. GRISWOLD, on going into a Committee of the Whole on the state of the Union, which was lost—yeas 38, nays 48, as follows:

YEAS.—Phanuel Bishop, Thomas Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas T. Davis, William Dickson, William Eustis, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, William Helms, Joseph Hemphill, Archibald Henderson, Benjamin Huger, Samuel Hunt, Thomas Lowndes, Ebenezer Mattoon, Samuel L. Mitchill, Lewis R. Morris, Thomas Morris, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, John Cotton Smith, John Stanley, John Stratton, Samuel Tenney, Samuel Thatcher, Thomas Tillinghast, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, John Dawson, Lucas Elmendorph, Ebenezer Elmer, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Thomas Moore, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, John Randolph, jun., John Smilie, John Smith, (of New York,) John Smith, (of Virginia,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jun., John Stewart, John Taliaferro, jun., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, John P. Van Ness, Joseph B. Varnum, Isaac Van Horne, and Thomas Wynns.

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Mr. GRISWOLD said, that notwithstanding the unfortunate situation they were placed in by the refusal of the House, he still deemed it his duty to move other resolutions, which he would read, and move to be referred to a Committee of the Whole.

Mr. G. then moved the following resolutions:

*Resolved*, That the people of the United States are entitled to the free navigation of the river Mississippi.

*Resolved*, That the navigation of the river Mississippi has been obstructed by the regulations recently carried into effect at New Orleans.

*Resolved*, That the right of freely navigating the river Mississippi ought never to be abandoned by the United States.

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, Legislative measures are necessary to secure to the people of the United States the free navigation of the river Mississippi.

Mr. DAWSON asked if these resolutions were not necessarily connected with a subject which the House had determined should be discussed in private? If, by this arrangement, other gentlemen had been precluded from offering resolutions, he would ask if it were right in the gentleman from Connecticut to violate a general injunction laid upon all the members?

Mr. GRISWOLD.—There is a Message from the President, of the 22d of December, on this subject that is publicly entered on the journals.<sup>[75]</sup> It is on this Message that these resolutions are predicated. I trust I understand the rules of the House well enough to know that I am not to bring forward what it has been enjoined shall be secret.

The question was then taken without further debate, on taking up the above resolutions for consideration, and lost—yeas 32, nays 50.

Mr. RANDOLPH then called for the consideration of the President's confidential Message, when the galleries were cleared.

## FRIDAY, January 7.

### *Navigation of the Mississippi.*

(SECRET SESSION.)

On a motion made and seconded, the House was cleared of all persons present, except the members and the Clerk: Whereupon,

The House again resolved itself into a Committee of the whole House on the Messages from the PRESIDENT OF THE UNITED STATES, of the twenty-second and thirtieth ultimo, and the documents transmitted therewith; and, after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. VARNUM reported that the committee had again had the said Messages and documents under consideration, and come to a resolution thereupon; which he delivered in at the Clerk's table, where the same was read as follows:

"*Resolved*, That this House receive with great sensibility the information of a disposition in certain officers of the Spanish Government, at New Orleans, to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations.

"That, adhering to that humane and wise policy which ought ever to characterize a

free people, and by which the United States have always professed to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty; and relying, with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States; holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties."

The House proceeded to consider the said resolution at the Clerk's table: Whereupon, so much as is contained in the first clause thereof, being again read, in the words following, to wit:

"*Resolved*, That this House receive with great sensibility the information of a disposition in certain officers of the Spanish Government, at New Orleans, to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations."

The question was taken that the House do concur with the Committee of the whole House in their agreement to the same; and resolved in the affirmative.

The last clause of the said resolution being again read, in the words following, to wit:

"That, adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty; and relying, with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States; holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties:"

A motion was made, and the question being put to amend the said last clause of the resolution, by striking out therefrom the words following, to wit:

"And relying, with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights, and vindicating the injuries of the United States:"

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It passed in the negative—yeas 30, nays 53, as follows:

YEAS.—Thos. Boude, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, Joseph Hemphill, Archibald Henderson, William H. Hill, Benjamin Huger, Samuel Hunt, Thomas Lowndes, Ebenezer Mattoon, Lewis R. Morris, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, John Cotton Smith, John Stanley, John Stratton, Samuel Tenney, Samuel Thatcher, George B. Upham, Killian K. Van Rensselaer, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, Thomas T. Davis, John Dawson, William Dickson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Samuel L. Mitchell, Thomas Moore, James Mott, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, jr., John Smilie, John Smith, (of New York,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, and Thomas Wynns.

Another motion was then made, and the question being put, to amend the said last clause of the resolution, by striking out therefrom the word "vindicating," next before the words "the injuries of the United States," and inserting the word "redressing," in lieu thereof, it passed in the negative.

The question was then taken that the House do concur with the Committee of the whole House in their agreement to the said last clause of the resolution, and resolved in the affirmative.

A motion was then made and seconded that the House reconsider their decision on the said last clause of the resolution; and the question being put thereupon, it was resolved in the affirmative.

A division of the question was then called for: whereupon the first member of the said last clause of the resolution being again read, in the words following, to wit:

"That adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed;

willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty:"

The said division of the question was objected to, as not being in order, and the SPEAKER having decided the same was in order, an appeal was made to the House from the decision of the Chair; and on the question, "Is the decision of the Chair in order?" it was resolved in the affirmative.

On the question that the House do agree to the said first member of the last clause of the resolution, it was unanimously resolved in the affirmative, by yeas and nays, every member present voting in the affirmative, to wit:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Thomas Boude, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, William Dickson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Calvin Goddard, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Seth Hastings, Joseph Heister, William Helms, Joseph Hemphill, Archibald Henderson, William H. Hill, William Hoge, James Holland, David Holmes, Benjamin Huger, Samuel Hunt, George Jackson, Michael Leib, Thomas Lowndes, Ebenezer Mattoon, David Meriwether, Samuel L. Mitchell, Thomas Moore, Lewis R. Morris, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Elias Perkins, Thomas Plater, John Randolph, jr., Nathan Read, John Rutledge, John Smilie, John Cotton Smith, John Smith, (of New York,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Joseph Stanton, jr., John Stratton, John Taliaferro, jr., Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, Killian K. Van Rensselaer, and Thomas Wynns.

The third member of the said last clause of the resolution being again read, in the words following, to wit:

"Holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries, and the rights of navigation and commerce through the river Mississippi, as established by existing treaties:"

A motion was made, and the question being put, to amend the same by striking therefrom the words "existing treaties," and inserting the word "treaty" in lieu thereof, it passed in the negative.

On the question that the House do agree to the said third member of the last clause of the resolution, it was unanimously resolved in the affirmative, by yeas and nays, every member present voting in the affirmative.

And then the main question being taken, that the House do agree to the said resolution, as reported from the Committee of the whole House, it was resolved in the affirmative—yeas 50, nays 25, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Theodorus Bailey, Richard Brent, Robert Brown, William Butler, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, John Dawson, William Dickson, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Edwin Gray, Andrew Gregg, John A. Hanna, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Samuel L. Mitchell, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, jr., John Smilie, John Smith, (of New York,) Josiah Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, and Thomas Wynns.

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NAYS.—Thomas Boude, Samuel W. Dana, John Davenport, John Dennis, Calvin Goddard, Roger Griswold, Seth Hastings, Joseph Hemphill, Archibald Henderson, Benjamin Huger, Samuel Hunt, Thos. Lowndes, Ebenezer Mattoon, Lewis R. Morris, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, John Cotton Smith, John Stanley, John Stratton, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, and Lemuel Williams.

*Resolved*, That the injunction of secrecy upon the members of this House, so far as relates to the resolution last recited, and the proceedings of the House on the Messages from the PRESIDENT OF THE UNITED STATES, of the twenty-second and thirtieth ultimo, be taken off.

## MONDAY, January 10.

Another member, to wit, JAMES A. BAYARD, from Delaware, appeared, and took his seat in the House.

A new member, to wit, PETER EARLY, returned to serve in this House, as a member from the State of Georgia, in the room of John Milledge, who hath resigned, appeared, was qualified, and took his seat in the House.



### ***Monuments to Generals, and to the Captors of Andre.***

A message from the Senate informed the House that the Senate have passed the bill entitled "An act to carry into effect several resolutions of Congress, for erecting monuments to the memories of the late Generals Wooster, Herkimer, Davidson, and Scriven," to which they desire the concurrence of this House.

The said bill was read twice and committed to the committee appointed the fourth instant, to prepare and bring in a bill for erecting a monument to the memory of General Herkimer, pursuant to a resolution of Congress, passed the fourth day of October, one thousand seven hundred and seventy-seven.

Sundry motions being made and seconded, that the House do come to the following resolutions respectively, to wit:

*Resolved*, That a monument be erected to the memory of Major General Joseph Warren, who was slain on Bunker's Hill on the seventeenth day of June, one thousand seven hundred and seventy-five; and that the sum of — be appropriated therefor.

*Resolved*, That a monument be erected to the memory of General Hugh Mercer, who was slain at Princeton, on the third day of January, one thousand seven hundred and seventy-seven; and that the sum of — dollars be appropriated for that purpose.

*Resolved*, That a monument be erected to the memory of General Francis Nash, who was slain at the battle of Germantown; and that the sum of — dollars be appropriated for that purpose.

*Resolved*, That a monument be erected to the memory of General Richard Butler, who was killed gallantly fighting in an action with the Indians, on the fourth day of November, one thousand seven hundred and ninety-one; and that — dollars be appropriated for that purpose.

*Resolved*, That a monument be erected to the memory of General Nathaniel Woodhull, who commanded the militia on Long Island, in the year one thousand seven hundred and seventy-six, and was then taken prisoner and most cruelly put to death by the enemy; and that — dollars be appropriated for that purpose.

*Resolved*, That a monument be erected to commemorate the virtuous and patriotic conduct of John Paulding, David Williams, and Isaac Van Wert, who, on the twenty-third day of September, one thousand seven hundred and eighty, intercepted Major John Andre, Adjutant General of the British Army, returning from the American lines in the character of a spy; and that the sum of — dollars be appropriated for that purpose.

*Ordered*, That the said motions, severally, be referred to the committee to whom was this day committed the bill sent from the Senate, entitled "An act to carry into effect several resolutions of Congress for erecting monuments to the memories of the late Generals Wooster, Herkimer, Davidson and Scriven."

### ***National University.***

Mr. VAN NESS presented a representation from Samuel Blodget, on the subject of a National University, as follows:

"The memorial of Samuel Blodget, late Supervisor of the City of Washington, represents that, owing his appointment chiefly to his zeal in forming several probationary plans for a National University, he conceived it an indispensable duty, after the death of WASHINGTON, to follow the commanding advice and noble example of the common Father of his Country, so irresistibly portrayed in his Farewell Address, and in the clause of his will annexed to his liberal donation therefor. In thus calling, most respectfully, the attention of your honorable body to this part of the will of WASHINGTON, he fulfils a promise made in behalf of more than one thousand subscribers to the same object, whose respectable names accompany this memorial, with a request that a committee may be appointed to consider what portion of the public lots and lands in the Western Territory of the United States, shall be appropriated by Congress to this important institution, in addition to the contents of either of the sites already contemplated therefor within the City of Washington, by WASHINGTON himself, and by the Commissioners thereof. And further to consider the expediency (should it comport with the monumental plan to be adopted) of erecting the statue of 1783, or in lieu thereof an appropriate and characteristic equestrian statue of the original founder of the National University, as a beautiful centre-piece for the entire plan, to be surrounded by halls and colleges as they may be built in succession, by the fund to which the whole people of America are now so liberally and so honorably contributing by voluntary subscriptions from Maine to Georgia inclusive; thus virtually following the ancient custom of the original Americans, who, men, women, and children, carried a stone to the monumental pile of a beloved chief."



The memorial was accompanied by a plan of the Equestrian Statue of Washington, surrounded by halls and colleges regularly arranged, the whole to be styled the Monument to Washington. Referred to a select committee—ayes 42, nays 27.

The following members constitute the committee: Mr. VAN NESS, Mr. TALIAFERRO, Mr. HILL, Mr. ELMENDORPH, and Mr. CUTLER.

## TUESDAY, January 11.

The House proceeded to consider the amendment proposed by the Senate to the bill entitled "An act for the relief of Charles Hyde;" Whereupon,

*Resolved*, That this House do agree to the said amendment.

### *Cession of Louisiana to France.*

Mr. GRISWOLD moved that the House resolve itself into a Committee of the Whole on the state of the Union, intending, should he succeed, to call up his resolution presented on the 5th instant, viz:

*"Resolved*, That the President of the United States be requested to direct the proper officer to lay before this House, copies of such official documents as have been received by this Government, announcing the cession of Louisiana to France, together with a report, explaining the stipulations, circumstances, and conditions, under which that province is to be delivered up, unless such documents and reports will, in the opinion of the President, divulge to the House particular transactions not proper at this time to be communicated."

I recollect, said Mr. G., when I proposed on a former day that the House should go into Committee of the Whole for the purpose of considering this resolution, the principal arguments in opposition were drawn from its supposed connection with a subject which had been referred to a secret committee, and, therefore improper for previous or public discussion. Those arguments have now lost their weight. The House have decided on those confidential subjects, and their resolution was published, and I believe it will appear that I was not incorrect in my opinion, that this resolution has no concern with any confidential communications. When before under consideration, the inquiry contemplated was considered important. The information requested must be in possession of the Executive; it cannot be supposed that such documents as would be useful to the House, do not exist in the Executive cabinet. We cannot legislate with a proper understanding, unless we are informed of all the circumstances, conditions, and stipulations, under which that territory is ceded to France. I will not believe that the Executive has neglected to demand such explanations as the honor and interest of the United States require. It is this official information which we want. As we are unembarrassed by other subjects, either of a public or secret nature, I hope the House will now come to a decision; I shall call for the yeas and nays.

Mr. DAWSON moved a postponement of the resolution to a future day.

Mr. MOTT said he was opposed to the resolution, but was for going into Committee of the Whole, and deciding upon it, rather than to be troubled with it from day to day.

Mr. DANA.—I consider the refusal to go into a Committee of the Whole on the state of the Union as a negative upon the resolution. We have been told before by the gentleman from Virginia, (Mr. RANDOLPH,) that it does not amount to a refusal of the resolution. True, it may not be so harsh a mode of putting it aside, but the effect is virtually the same. Will it be made a question whether it is proper to ask for information? The President has recommended the subject to our attention in his message. It is not only proper, but of course becomes our duty, to deliberate, and to request such information from the President, as will assist and enlighten us in our proceedings. It is his constitutional province to do this, and it would be a reflection on him to suppose that he would withhold any information from the House, on a subject which he had thought so important, as to form part of an official message. It could not have been inserted merely for the sake of rounding off a period. No, sir, the President has undoubtedly sufficient reasons for mentioning this, as a subject worthy of our deliberations; he is designated by the constitution as the proper person from whom information on subjects of this nature is to be derived; he is supposed to combine the whole; it is not proper to receive it but from an official source. The general subject is mentioned in the following terms:

*"The cession of the Spanish province of Louisiana to France, which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations connected with that subject."*

Are we to suppose the Executive has not been vigilant in ascertaining the circumstances attending this event? No. Are we to suppose he is unwilling to inform us what they are? No. He must be supposed willing to give the information. Therefore, why should gentlemen prevent us from obtaining that intelligence, which is presumed to exist, and which the Executive must be willing to give?

Mr. RANDOLPH was averse to going into a Committee of the whole House on the state of the Union, if it were understood that the resolution of the gentleman from Connecticut was to be taken up. It was not very material to him in what way the House signified their dissent to the measure; but, preferring that which was least circuitous, he hoped they would refuse to take it up in committee.

Much pains having been taken to impress a belief that the President had communicated to the House a fact of which he possessed no official information, Mr. R. begged the House to recollect that the tortured ingenuity of gentlemen had been unable fairly to infer the fact from the Executive communications; nor could it be implied from a refusal to concur in the proposed resolution. His opposition to it grew out of the resolution itself. It conveys the suspicion that Spain has ceded Louisiana to France indefinitely, thereby giving to France some color of claim to the countries formerly comprised under that appellation; or that she has made the cession by limits incompatible with her engagements to us; and that in either case our right to the navigation of the Mississippi may have been impaired. For, if you suppose in this transfer of her property that Spain has paid due regard to her stipulations with us, the resolution ceases to have an object. Now, sir, wherefore cast this imputation on Spain?—especially at this crisis, when, as I am informed from a respectable source, one of the first characters in the Union is recently nominated Minister to that Court, for the purpose of adjusting all differences on this subject?

I should have supposed another reason would have deterred the gentleman from persisting in this call. That gentleman and his friends had recorded on the journals of this House their solemn determination, however sensibly they might feel the injuries inflicted on the rights and interests of these States, to refuse all co-operation in the support of those rights and interests so long as the direction of the Government should be retained by those who now possess it. For, after having expressed their disapprobation of that clause in a resolution lately adopted by the House to affect our rights of limits and of navigation through the Mississippi, objecting to no other part of it, they had, nevertheless, refused to give their assent to it because of this objectionable passage. There was a time, sir, when such conduct would have been denounced by a portion of this House as the essence of Jacobinism and disorganization. Mr. R. concluded by saying that he thought it unwise at this time, in the very cradle of the negotiation, to throw out insinuations which would have a tendency to irritate or disgust the Spanish Court.

Mr. GRISWOLD.—I did not expect that the gentleman from Virginia (Mr. RANDOLPH) would, in the face of the journal now on the table, in contradiction to the knowledge of every gentleman in this House, have made the declaration we have just heard. Have we given our vote that we would not defend the free navigation of the Mississippi? Have we not been ready to unite in adopting those measures which the infraction of treaties and our violated rights demand? I appeal to our journals. What has been done, there appears, and will contradict the assertions of that gentleman. When the resolution was under consideration in the secret committee, which the gentleman (Mr. RANDOLPH) emphatically called HIS OFFSPRING, there were two votes taken on certain parts or members of it, previous to the main question. A motion was made to strike out the following clause:

"And relying with perfect confidence on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States."

I voted against this part of the resolution for two reasons: first, because I could not express a confidence which I did not feel; and secondly, because I was not satisfied with a resolution to do nothing. I thought we ought to do something; that it was not proper for the Legislature to sit as idle spectators of an important political transaction, which required legislative interference. I thought we ought to prepare for the worst. These were the reasons, Mr. Speaker, which influenced my conduct upon the motion for striking out. But how did we vote on the motion for agreeing to the following clause?

"Holding it to be their duty at the same time to express their unalterable determination to maintain the boundaries, and the rights of navigation and commerce, through the river Mississippi, as established by existing treaties."

Did we refuse our assent? Did we object to a syllable contained in this part of the resolution? No, sir, the vote was unanimous. Every member of the House stands pledged to support the sentiments therein expressed. On this point there was no difference of opinion. I appeal to your journals, sir, and to the recollection of every gentleman who was on that secret committee, whether I am not correct. It is true that there was a difference of opinion in the secret committee upon the other part of the resolution; on one side of the House it appeared proper to express great confidence in the present Executive, and, leaving every thing to that department, to do nothing ourselves; whilst on the other side, as we did not feel that confidence, we could not express it, and believing the occasion demanded legislative interference, we thought it necessary to prepare for the worst. How, then, can we be charged by the gentleman from Virginia (Mr. RANDOLPH) with having recorded our determination not to protect the rights and interests of these States, when our votes, appearing on your journal, not only prove our unalterable determination to defend those rights, but likewise prove that we were willing to leave the vindicating of those rights entirely to the Executive, and were earnestly desirous of adding thereto all the aid which the Legislature could contribute, and that we have been prevented from pursuing this course by the gentleman from Virginia, (Mr. RANDOLPH,) and his friends? I must be permitted again to express my astonishment that the gentleman can with any face make these charges, and again to appeal to your journal, and the recollection of every gentleman, for a contradiction of these unmerited aspersions.

When the main question was taken we refused our assent. Not because we were unwilling to adopt such measures as circumstances might require; but because we could not sanction those expressions of unbounded confidence in the Executive, and that determination to do nothing which the resolution contained.

As another argument against this resolution, we are told it is calculated to irritate and impede a negotiation, which the gentleman from Virginia (Mr. RANDOLPH) has informed us is about to commence, and, I must say, about to commence at a very late period; after an expiration of one year since the cession of that territory to France. Let us recur to the resolution:

"*Resolved*, That the President of the United States be requested to direct the proper officer to lay before this House copies of such official documents as have been received by this Government, announcing the cession of Louisiana to France, together with a report explaining the stipulations, circumstances, and conditions, under which that province is to be delivered up; unless such documents and reports will, in the opinion of the President, divulge to the House particular transactions, not proper at this time to be communicated."

Is this the language of irritation? Is there an offensive sentence either to the Court of Spain or the Republic of France? Not one. So far from impeding negotiation, it might lead to measures which would accelerate the agency, and ensure terms more advantageous. To be ready for any and every event, would evince on our part a disposition to demand, and the power to enforce reparation if refused. Inactivity and silence in the Legislative Department will indeed retard successful negotiation, by depriving a Minister of powerful and unanswerable arguments.

Mr. S. SMITH said, it would be recollected, that on the first day the resolution of the gentleman from Connecticut was offered, it struck him as improper, and that it was at his instance it had been ordered to lie on the table. The more he had considered the nature of that resolution, the more averse to it had he become. So far from his original dislike to it having been removed by the arguments advanced, it had been confirmed, and particularly by what had fallen from the gentleman from Virginia. The gentleman from Connecticut does not perceive, or is unwilling to acknowledge, that there is any thing in his resolution that implies unfairness on the part of Spain, or that derogates from the honor of her character; but let him read the resolution. Mr. S. then read as follows:

"That the President of the United States be requested to direct the proper officer to lay before this House copies of such official documents as have been received by this Government, announcing the cession of Louisiana to France, together with a report explaining the stipulations, circumstances, and conditions under which the province is to be delivered up."

Does not the gentleman who drew this resolution seem to believe, from the express words of it, that the conduct of Spain has been unfair, and that she may have adopted measures derogatory to her character and honor? Shall we send a Minister hampered by such a resolution?

Let the gentleman recollect the conduct of this House on a similar occasion. When an order of the British Court issued to seize all American vessels, wherever found, certain spirited resolutions were proposed in that House to show the dissatisfaction of the Government at this unjust measure, and its disposition, if necessary, to resist it. The gentleman will recollect, that at that crisis, and pending those very resolutions, a Minister was appointed. Did not the gentleman's friends immediately state the impropriety of passing those resolutions? The fact was, that gentlemen on both sides felt the force of the suggestion, and the resolutions were withdrawn. Mr. S. thought it wise, prudent, and proper, to pursue on this occasion the same course. He could conceive of no good end which could be answered by the resolution. Is the gentleman really in earnest in his inquiries at this time? and if the effect of his resolution should be to show that the stipulations are injurious to our rights, would he know how to act? He would be for acting spiritedly, no doubt; and yet, at this very moment, when he professed such a declaration, he declares to the world, that he has no confidence in the Executive, who is now pursuing the proper measures! I cannot, therefore, conceive that the gentleman is in earnest, after the vote which he and his friends have given of a want of confidence in the Executive. I cannot consider their conduct as intended to promote the real interests of their country; but as calculated to bring the country into a situation from which it cannot withdraw, without pursuing measures attended with expense and blood.

Mr. RANDOLPH.—I trust neither this House, nor the American people, can be deceived as to this transaction. What I have stated the journals confirm, and I should call for the reading of them, if I were not informed by the Clerk that they were at the printer's. A resolution passed this House, expressing its disposition to assert the rights of the United States, in relation to their established limits, and to the navigation of the Mississippi. That resolution contained an expression of confidence in the Executive. Gentlemen moved to strike it out and failed. In every other part they concurred, separately and distinctly. But to the whole they gave their negative. What is the inference? That they will not assert our rights because they have no confidence in the Executive. Liken this to a bill: A clause is moved to be stricken out; it is retained. Those who object to that clause vote against the final passage of the bill. It is nevertheless carried; it becomes law. Are not those who voted against it fairly to be considered as enemies to the law? So have I a right to enumerate that gentleman and his friends, opponents to the measure which I submitted to the House; and yet, sir, although I stated every fact mentioned by the gentleman himself, (Mr. GRISWOLD,) except the final vote, which he took care to keep out of sight; although I mentioned expressly their concurrence in every other part of the resolution, it is asked with what face I can make such a statement in the teeth of your journals? Sir, let me tell that gentleman, not with the face of a prevaricator, but with the face of a man of honor and a gentleman; not with the face of one using terms intended to convey more than meets the ear, with a view of explaining them away when convenient; not with a design of simulating what I do not believe, or of dissembling my real purpose. The House will recollect, sir, that in the committee, the objection of the

gentleman from Connecticut was confined solely to the expression of confidence in the Executive, there was then no reason to believe that there was any other. After protesting against this expression, and suffering it even to prevent his concurrence in any measures for the common good, he comes forward with another resolution, whether to benefit that cause which he has refused to espouse, or to diminish that confidence which appears so much to have disturbed him, I leave the House to determine. But Louisiana is ceded to France. It is so. Of this fact we have official information. But let it be remembered that it is yet in the hands of Spain. The injury which we have received is from officers of that Crown. The reparation is to be demanded from the same quarter. Now what has the information desired by gentlemen to do with any such negotiation? When France shall have taken possession of this province; when she shall have made pretensions inconsistent with our honor, or with our rights in that quarter, then will it be time enough to take up this subject. This is a transaction, which, if it ever does take place, must pass under the immediate cognizance and control of this House. Let gentlemen recollect that the treaty of cession is of an old date, and Louisiana is, notwithstanding, still in the possession of Spain. Shall we then suggest to France our expectation that she will set up a claim inconsistent with our rights; that she may have received a colorable pretence for violating them? Shall we thereby invite her aggressions? In whatever hands this country may be eventually placed, or by whomsoever our rights may be invaded, I doubt not a disposition will always be found to defend them. But it is with the actual possessors that we must negotiate; it is from them we must demand redress, and not from any nation who may possess a reversionary right to the province of Louisiana.

Mr. BACON said that there was one question before the House, and they were debating upon another, in an animated manner and on an extensive scale, before they come to it. It would be recollected, he hoped, that this question was not then before the House. To what point, therefore, could these discussions lead? He was for going into a Committee of the Whole, and meeting the resolution face to face.

Mr. DANA said that the observations of the gentleman from Massachusetts would be correct, were it not for the objections made to the resolution. That question is, therefore, fairly before the House; and the real point is, whether the House will, or will not, adopt the resolution requesting information. To adopting this resolution, one objection is urged by the gentleman from Virginia, and enforced by the gentleman from Maryland. This resolution, say they, may irritate the Court of Spain, and this will be improper. One gentleman has said that the language of propriety is uniform and consistent. Let gentlemen look then at the resolution long since offered by the gentleman from Virginia, requesting papers in relation to a violation of compact on the part of Spain in the late proceedings at New Orleans. Let me ask, is there any thing in this calculated to gratify the courtly delicacy of a Castilian? Here Spain is explicitly charged with a violation of her engagement with us. Look at the resolution that took its birth in secret committee, and which might be termed the offspring of the intellectual energies of the gentleman from Virginia. It is willing to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty. If this were not the style of direct complaint, it was, at least, harsh, and in no wise courtly. Look now at the resolution proposed by my colleague. Compare them, and if there is not a revolution in the force of language as well as in other things, say if the language of my colleague's resolution is not that of civility, moderation, and even flattery, compared with the language of the other two?

[Mr. DANA having read Mr. GRISWOLD'S resolution proceeded.]

What is there here that implicates the character of Spain? If there is any fault in mentioning the cession, if that is calculated to irritate Spain, the fault lies with the President; for he first mentioned it. This argument, then, must be abandoned. There is nothing in this resolution that can impede negotiations; it is not my intention that this House should take any measures to impede, but that we should take measures to give additional force to negotiation. If I understand what will give most efficacy to Executive negotiations, it is when the world are assured that this House will support the President in all proper and necessary measures for vindicating our rights. But, say the gentlemen, is it possible that we can be for vindicating the rights of the citizens when we have withdrawn our confidence from the Executive? It is true we could not agree with gentlemen in their terms when they avowed "a perfect confidence in the vigilance and wisdom of the Executive." The gentleman from Virginia represented this as the theory of the Government. We could not agree with him. We voted for striking this out. It is unnecessary to mention our motives for this in detail. This might be to imitate. What! "relying with perfect confidence in the Executive"—is this the language of the constitution, as it respects any man? The resolution does not limit the confidence reposed to any degree, but ascribes a perfection of wisdom and vigor, which ought not to be reposed in any being subject to the ordinary frailties of human nature. Besides, there is an expression of confidence resulting from the constitutional powers of the Executive, which may be correct. But it will be recollected that the powers of the Executive are not competent to ulterior measures. He has only the power of negotiation; he has no other. Though he may prevent an aggression by employing force, he cannot enforce compensation for injuries received. It was, therefore, improper to agree to a resolution that pledged ourselves to abstain from doing any thing.

The allusion to the case with Great Britain was not correct. Will it be said that less success attended the measures of our negotiation then, because the House manifested a disposition to adopt spirited measures? Or, that there were in that case no measures adopted? Measures were adopted. But here, not a single measure had been.

Mr. RANDOLPH said it was extremely painful to him to be obliged so often to explain what appeared

to him almost self-evident. The journals have been quoted, sir, to show that I have cast an imputation on the Spanish Court more injurious than that contained in the resolution of the gentleman from Connecticut. I am perfectly willing that the decision of the question before us should depend upon that fact. The resolution, sir, which I had the honor to submit to you, spoke of a fact notorious to the whole world, of a breach of compact, of a violation of treaty, on the part of Spain, which could be neither denied nor justified. It contained an inquiry into this circumstance, and, information having been received respecting it, was followed by a declaration of our willingness to ascribe it to the unauthorized misconduct of their agents rather than to the Court of Spain. The resolution of the gentleman from Connecticut implies a fact highly dishonorable to the Spanish nation—that the Government, and not subordinate, unauthorized persons, has secretly entered into stipulations repugnant to its engagements with us. Put the case between two individuals; suppose a gentleman of this House to receive an injury from either of the gentlemen from Connecticut. In an open and manly manner he speaks of this injury, and in undignified terms of resentment. He inquires into it; having found that it was the act of a subordinate agent, and, no proof being exhibited that it was at the instigation of the principal, he frankly says: There is a violation on your part of your engagements with me, but I am willing to ascribe it to the unauthorized misconduct of your agent. On the contrary, suppose him to insinuate strongly that his opponent has covertly taken steps to injure him by treacherously entering into engagements incompatible with those previously made with him. Sir, that honor which would feel itself wounded by the first of these proceedings, while it was insensible to the other, is very little allied to the Castilian.

But, sir, it seems that this unfortunate resolution betrays so entire an ignorance of the distribution of the powers of our Government as to clothe the Executive with an authority not only not devolved upon it by the constitution, but which is the peculiar province of this and the other branch of the Legislature. The gentleman (Mr. DANA) denies the power of the Executive to redress injuries received from foreign nations. The resolution, however, speaks only of a disposition to redress those injuries. But let us examine into the fact. Have I, indeed, so far mistaken, and, contrary to my own avowed principles, am so disposed to augment the Executive powers at the expense of the other departments of the Government? Suppose, on the representations of the Executive to the Court of Spain, that Court, which is more than probable, should restore the rights of navigation and deposit, disavow the conduct of their officers in violating those rights, and moreover, punish them for it? Would any person deny that, through the agency of the Executive, constitutionally exercised, the injury was redressed? There were other criticisms of the gentleman which I well remember, and to which he seems willing to call the recollection of the House. They were chiefly of a verbal nature. The gentleman objected to the expression "vindicating the injuries," which he contended implied the justifying, and not the redressing, of them. I could only reply, that I had been in the habit of hearing that word used in the sense in which I applied it as well as in that contended for by the gentleman. That the meaning of terms in our copious and flexible language should not be settled by provincial acceptation; and that by the only authority then accessible to us (knowing the disposition of the gentleman to bow to authority) it was decided that the word "vindicate" extended as well to the avenging of an injury as to the assertion of a right. I am, however, willing to confess that I have never attended to the technical structure of language with a precision so minute as that of the gentleman from Connecticut; and if the House are again to go to school to become acquainted with it, if again we are to be subjected to the lash of the pedagogue, no man shall have my vote for that high office so soon as the gentleman from Connecticut.

When the resolution which I submitted to you was under consideration, I did defend the expression contained in it, of confidence in the Executive, on the theory of our Government. I am still ready to defend it on the same principle. By the Constitution of the United States, the Executive is the representative of the United States to foreign nations. It is furnished with organs by which to receive their propositions, and to communicate our own. The constitution, therefore, presumes that to this department may be entirely confided our negotiations with foreign States. To this House is given the sole power to originate money bills, and the constitution supposes that a perfect reliance may be had upon it for executing this all-important trust. On the Senate, in like manner, is devolved the right of trying impeachments, and perfect confidence is placed in the wisdom and justice of their decision. The same confidence is reposed in the Executive with respect to exterior relations. Without adverting, therefore, to the character of the individual, we had the same right to presume that the constituted authority would take the proper steps in relation to his department, that he has to presume that we will raise the necessary revenue and pass the proper laws. Until, then, it could be shown that some specific act of the Executive had rendered that department unworthy of our confidence, we might consistently express it: and, even if proof of such misconduct could be established, it would not alter the tenor of the constitution, however the individual might be affected by it. For your constitution, sir, is not of that precarious nature which depends on the fluctuating characters of particular men. Mr. R. concluded by declaring his reluctance, then increased by indisposition, to be so frequently called upon the floor, but he felt himself in honor bound to defend a motion made by himself, and which had called forth such repeated animadversions from the other side of the House.

Mr. GODDARD.—The gentleman from Virginia (Mr. RANDOLPH) has complained so much of the objections to which his *secret* resolution was exposed, that I feel myself called upon to sustain a part of that complaint which he has seen fit to place to the account of my colleague. The motion, sir, to strike out the word "vindicating," which gave the gentleman the trouble of producing his pocket dictionary, came from me. He attempted to show, by the authority of his dictionary, that the word is sometimes used to signify *revenge*. Admitting it, I asked then, and I ask now, with

what propriety it could be used, even in that sense, in the resolution referred to? We were then speaking of measures which had before that time been taken by the President, regarding the subject to which the resolution referred. Were we to suppose that the President had already taken measures to *revenge* the injuries of the United States? I had heard of no such intimation. Besides, has he the power to do so, in the manner then suggested by the gentleman from Virginia by taking possession of New Orleans? I believe not, without the concurrence of Congress. It was therefore absurd, in the highest degree, to use the expression in that resolution; and we had more than one reason for striking out that part of the resolution which contained it.

But this, as well as every other word and letter of this favorite resolution, was pertinaciously adhered to. The gentleman who framed the resolution seemed determined to compel us to eulogize the President—to extort from us a little praise of *the man*—or reduce us to the necessity of voting against the principle of the resolution, which asserted our right to the free navigation of the Mississippi. This part of the resolution could have been introduced for no other purpose. It also called upon us to pledge ourselves to wait the issue of such measures as the President might have taken, without any knowledge of the nature of those measures, if any had been taken. And this, the gentleman (Mr. RANDOLPH) now tells us, we might well enough have done, on the ground of the *theory of our Government*. I did not know, sir, that it belonged to the theory of Government to eulogize the President on all occasions, or express a confidence we do not feel. Nor does it make a part of the theory of our Government, that the President, without the concurrence of Congress, should avenge the injuries of the country. But, sir, we determined not to express a confidence we did not feel, or vote against the principle of a resolution which was agreeable to us; and the rules of the House, notwithstanding all the efforts to the contrary, protected us in carrying that determination into effect. We recorded our votes in favor of such parts of the resolution as we liked, and against that which we deemed exceptionable; and the final vote which was given upon the whole resolution was sufficiently explained by those upon its different parts. But, sir, because we did not vote that we had "perfect confidence" in the Executive, are we now to be told that we are not entitled to the information called for by the resolution on your table? Are those who do not express entire approbation of all the measures of the Administration to be refused all information respecting the most important interests of the country?

Another objection is raised to agreeing to this resolution. Gentlemen say it will offend foreign nations. What does the resolution call for? It calls for information of a *fact* which we are told in the President's Message exists. Louisiana, says the President, has been ceded by Spain to France. We ask for such documents as he may possess in evidence of that fact. We wish to know the terms and conditions upon which that province is to be delivered up. When this is asked, by the resolution on your table, the right is at the same time reserved to the President to withhold such parts of it (if any such there be) as, *in his opinion*, ought not to be communicated. And the passage of this resolution is to offend France or Spain! For fear of *offending* foreign nations we are not to ask or know what is our relative situation with such nations? If, sir, we hold this language, we may indeed avoid the *anger* of foreign nations, but we shall merit their *contempt*. But when, in answer to the suggestion that we may offend Spain, the gentleman from Virginia is reminded of his resolution, which charges Spain directly with a violation of treaty, he replies that this language is palliated by our saying that we are "willing to ascribe this violation to the unauthorized conduct of certain individuals rather than to the want of good faith on the part of His Catholic Majesty." But, in making out this apology, the gentleman has blended two resolutions together. The one to which my colleague referred passed early in the session. In that, Spain was charged directly with a violation of treaty. Nothing was then said about unauthorized conduct of individuals. This reluctance at charging Spain with this violation of treaty was not expressed until a long time after, and is found in the resolution which passed in secret. Indeed, this, as well as all the objections which have been offered to the passage of the resolution on your table, appear to me equally fallacious.

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Mr. HUGER said, that having, on a former occasion, had an opportunity of delivering his sentiments in favor of the present resolution, "requesting the Executive to direct the proper officer to lay before the House such official documents, as were in possession of the Government, relative to the cession of Louisiana to France," he felt no disposition to enter at this time into a further discussion of the merits of that resolution, nor should he have again troubled the House on the subject, but for the assertion repeated more than once by the gentleman from Virginia, (Mr. RANDOLPH,) that those gentlemen who thought and voted with himself in the secret committee, had recorded, on the journals of the House, their solemn determination (however sensibly they might feel the injuries inflicted on the rights and interests of these States) to refuse all co-operation in support of those rights and interests so long as the direction of the Government should remain in the hands of the present Chief Magistrate. This imputation had already, it was true, been very properly repelled by his friend from Connecticut, and it had been triumphantly shown from the journals themselves, with how little justice the insinuation had been made against those who agreed and voted with him on the different parts of the resolution lately adopted in the secret committee. The gentleman from Virginia had, nevertheless, thought proper again to make the assertion; Mr. H. must, therefore, beg leave again to meet it, and to declare that it was neither authorized by a fair construction of the different votes given on the occasion by yeas and nays, nor to be inferred from any thing which had fallen in debate either from himself or any of his political friends. The very contrary, continued Mr. H., is in truth the fact; and had the resolution in question been debated with open doors, it would have been very evident to every one, that the utmost pains had been taken by the other side of the House to place us in this very predicament, and by availing themselves of a point of order, to oblige us by our votes, not only to declare an implicit and entire confidence in the present Chief Magistrate,

but to tie up our hands and bind ourselves not to take a single step in this important business until the Executive was graciously pleased to authorize us to do so. If the doors had been allowed, I say, to remain open during the debate, it would have been evident to every one how much pains were taken to oblige us to commit ourselves on these two points, or to submit to be presented to the world as unwilling to co-operate in any way in the support of the just rights of the nation, and be deprived of an opportunity of showing, as we were anxious to do, our approbation of, and concurrence in, other parts of the resolution; the last sentence in particular, which holds forth our unalterable determination to maintain, in every event, the boundaries and right of commerce and navigation through the Mississippi, as established by existing treaties. Fortunately, however, the point of order was determined in our favor, and we have had an opportunity to show, and did actually show, by our votes, in the most unequivocal manner, that we were, as well as our political opponents, decidedly in favor of every other part of the resolution, save only that which called on us so unnecessarily to declare ourselves the blind and passive tools of the Executive. Nay, more, he recollected to have declared himself, again and again, in the course of the debate, that, although he was not willing at the present moment unnecessarily to express an entire and implicit confidence in the political infallibility of the Executive, yet he certainly had not the smallest hesitation in saying, that he was as ready as any gentleman on the other side, to devote his life and fortune, even under the auspices of the present Chief Magistrate, to the defence of our common country against any and every foreign aggression whatever. He was not, it was true, one of the warm and enthusiastic devotees of the present Administration, and he must honestly acknowledge that he should greatly prefer seeing the reins of Government, at this critical juncture, in the hands of a WASHINGTON! He, nevertheless, recollected that the present Chief Magistrate was placed at the head of affairs by the constitutional voice of the majority of the American people. He acquiesced, therefore, in their decision, and hoped he might be permitted to avail himself of the advantage of having the doors now open, to repeat again, in the most unequivocal language, that he was as ready as any of the most devoted friends of the Administration, to risk his life and his all, (even under its auspices,) in asserting the rights and vindicating the injuries of the United States.

He was the more anxious to make a public and open avowal of his sentiments on this subject, because, although it might suit the party purposes for the moment to hold up one side of the House, as so forgetful of their duty, and so hurried away by their political zeal, as to pledge themselves in the face of the world, to give up the most important rights of the nation without a struggle, rather than co-operate with those now at the head of affairs in support of them, yet he thought it all-important that foreign nations at least should be convinced the fact was not so; and that whatever difference of opinion may exist amongst us with respect to our local politics, when called upon to meet and repel the encroachments of any foreign power, we would have but one sentiment on the subject. To bring about, indeed, a unanimous vote and present to the American people the agreeable and consoling spectacle of the National Legislature acting with one mind and with mutual confidence in each other on this great national question, big with such important consequences, had been his sincere wish, as well as that, he was confident, of every member on his side of the House. They had, consequently, left no stone unturned to effect the desirable end: they had called upon and conjured the majority to waive for the moment all party questions; to meet them on such fair and honorable grounds as might enable them to act with perfect unanimity in support of such measures, as it might be found expedient to adopt. Nor could gentlemen have forgotten the eloquent and conciliating speech of the member from Connecticut, and the ardent desire he had evinced, in common with all his friends, to bury the hatchet and lay aside every other consideration but the public good. It was scarcely necessary, however, to remind the House of the manner in which these proffers of conciliation and the anxiety on our part to obtain a unanimous vote on this important occasion were received. It is in the memory of every one, that they were treated with the most sovereign contempt, hooted and spurned at, and the gentleman from Virginia, (Mr. RANDOLPH,) in particular, went so far as to declare, that he neither wanted nor wished any thing like unanimity to appear in support of the measures which might be adopted; nay, that unanimity, however attainable, was not desirable. Mr. H. said he would make no comment on these sentiments and this conduct on the part of the majority; and as he did not rise for the purpose of entering into a further discussion of the main question, he should no longer encroach on the time or patience of the House, but leave them and the world to determine whether he or his political friends had, by their votes or conduct, in the course of the transaction alluded to, afforded any just ground for the imputation of the gentleman from Virginia, whatever plausibility he had ingeniously endeavored to give it.

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The question was then taken, on the requisition of Mr. GRISWOLD, by yeas and nays, and carried in the negative—yeas 38, nays 52, as follows:

YEAS.—John Archer, John Bacon, James A. Bayard, Phaniel Bishop, John Campbell, Thomas Claiborne, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Abiel Foster, Calvin Goddard, Roger Griswold, William Barry Grove, Joseph Hemphill, Archibald Henderson, William H. Hill, Benjamin Huger, Samuel Hunt, Thomas Lowndes, Ebenezer Matoon, Lewis R. Morris, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, John C. Smith, John Stanley, John Stratton, Samuel Tenney, Samuel Thatcher, Thomas Tillinghast, George B. Upham, Joseph B. Varnum, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

NAYS.—Willis Alston, Theodorus Bailey, Richard Brent, Robert Brown, William Butler, Matthew Clay, John Clopton, John Condit, Richard Cutts, Thomas T. Davis, John Dawson, William Dickson, Peter Early, Lucas Elmendorph, Ebenezer Elmer,

William Eustis, Edwin Gray, Andrew Gregg, John A. Hanna, Daniel Heister, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Samuel L. Mitchill, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, jr., John Smilie, Israel Smith, John Smith, (of New York,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, jr., John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, John P. Van Ness, Isaac Van Horne, and Thomas Wynns.

Mr. S. SMITH said he had a communication to make, which, in his opinion, required secrecy; whereupon the galleries were cleared.

After a short time they were opened; when the House resumed the consideration of Mr. GRISWOLD'S resolution which lay on the table.

*Ordered*, That the Committee of the whole House, on the State of the Union, to whom was referred, on the fifth instant, a motion respecting official information of the cession of Louisiana to France, be discharged from the consideration thereof; and that the said motion do lie on the table.

Mr. BAYARD said he lamented much, that unavoidable occurrences had prevented his attending in his place when the resolution was under consideration upon the motion to go into a Committee of the whole House. Having no knowledge of the arguments then employed to induce the adoption of the resolution, he should abstain from many remarks which obviously presented themselves on the subject, lest he should fall into repetitions of what was familiar to the minds of the House from the observations of other gentlemen. He must, however, be allowed to state that it was a practice little known heretofore, but one which had alarmingly increased of late, to resist a call for information from any branch of the Executive Government. It cannot be on the ground of secrecy, required by the state of affairs, for we have been often told that a Government like ours ought to have no secrets. Though the present times have assumed the character of *economical*, yet an honorable member of great weight in the House, and whom he did not then observe in his place, had remarked at the last session, with great emphasis and effect, that no disposition to economy should ever induce him to economize information. A stronger case than the present could not exist. The House had been called on to act upon a question touching our foreign relations. On such subjects, it was among the chief duties of the Executive to acquire information. It was for this purpose that Ministers were sent abroad, and their communications were made to the Cabinet, to which we had a right to look upon all occasions for information respecting the proceedings of foreign Governments which implicated the national interest.

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It is stated in the Presidential Message, that Louisiana is ceded by Spain to France. This is an important fact. The statement in the Message shows that the President has obtained information relative to the cession after the fact is disclosed, which is the extent of any indiscretion which can be committed on the subject; why conceal from us the circumstances? The naked fact did not furnish sufficient light to enable us to judge of the steps which it would be proper for us to pursue. Though the country had been ceded, yet the possession remained with the Spaniards. This created a presumption that it was not a simple, absolute cession. If the cession be conditional or qualified, or to take effect upon some future contingency, it is extremely material that the House should be informed of the existence of the circumstances.

Mr. B. repeated his regret that he was not present at the discussion of the subject which had taken place, as it was beyond his powers to imagine a ground upon which the information requested by the resolution could be denied. But after the resolution had been in effect negatived on the motion to go into a Committee of the Whole, and, as he understood, by a large majority, he should not have risen to trouble the House but for an occurrence which had taken place since the House had made their determination upon the resolution. An honorable member from Maryland (Mr. S. SMITH) has just laid upon our table a resolution calling upon the House to place two millions of dollars at the discretion of the Executive. [The SPEAKER here remarked to Mr. BAYARD, that as the doors were no longer closed, it was not in order to refer to what had been done when the doors were closed.] Mr. B. said he had no disposition to transgress the rules of the House; but it was an awkward situation, when, arguing in support of a measure, he was not at liberty to state the strongest reason in favor of it. He would not repeat what had escaped him; but alluding to what was in the knowledge of every member, he considered himself allowed to urge the probability that the House would be called upon for a grant of money. Now, sir, can gentlemen expect that either we or the nation will in any case be satisfied to make a large grant of money, while no information is given of the grounds upon which the grant is required? When money is asked for, information ought never to be denied; and, for his part, he never would consent to give a cent, while information, which ought to be communicated, was withheld.

Mr. B. concluded by observing, that he hoped he might still flatter himself with the expectation, that what had recently occurred, would induce the House to vary from the determination they had made, and adopt the resolution.

The question was taken, that the House do agree to the resolution of Mr. GRISWOLD, and passed in the negative—yeas 35, nays 51.

**WEDNESDAY, January 12.**

***Purchase of Louisiana.***



[The injunction of secrecy having been removed from the following proceedings, had in secret session, they are here inserted under the proper date.]

*Ordered*, That the Committee of the whole House, to whom was yesterday committed a motion in the words following, to wit:

*"Resolved*, That a sum of two millions of dollars, in addition to the provision heretofore made, be appropriated to defray any expenses which may be incurred in relation to the intercourse between the United States and foreign nations, to be paid out of any money that may be in the Treasury, not otherwise appropriated, and to be applied under the direction of the President of the United States, who, if necessary, is hereby authorized to borrow the whole or any part thereof; an account whereof, as soon as may be, shall be laid before Congress:"

be discharged from the consideration thereof, and that the motion be referred to Mr. NICHOLSON, Mr. EUSTIS, Mr. BAYARD, Mr. DICKSON, Mr. LOWNDES, Mr. THOMPSON, and Mr. GREGG; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

The committee to whom was referred a resolution proposing an appropriation of two millions of dollars, in addition to the sum usually appropriated for the purposes of intercourse between the United States and foreign nations, submit the following report:

The object of this resolution is to enable the Executive to commence, with more effect, a negotiation with the French and Spanish Governments relative to the purchase from them of the island of New Orleans, and the provinces of East and West Florida. This object is deemed highly important and has received the attentive consideration of the committee. The free and unmolested navigation of the river Mississippi is a point to which the attention of the General Government has been directed, ever since the peace of 1783, by which our independence as a nation was finally acknowledged. The immense tract of country owned by the United States, which lies immediately on the Mississippi, or communicates with it by means of large navigable rivers rising within our boundaries, renders its free navigation an object, not only of inestimable advantage, but of the very first necessity. The Mississippi forms the western boundary of the United States, from its source to the 31st degree of north latitude, and empties itself into the Gulf of Mexico, about the 29th degree of north latitude. It furnishes the only outlet through which the produce of the Indiana Territory, of the States of Ohio, Kentucky, and Tennessee, and of the western parts of Pennsylvania and Virginia, and a portion of the Mississippi Territory, can be transported to a foreign market, or to the ports of the Atlantic States. From the 31st degree of north latitude, which is the southern boundary of the United States, to the mouth of the river, the territory on each side has heretofore been in possession of the Spanish Government; the province of Louisiana lying to the west, and those of East Florida, with the island of New Orleans, to the east. Although the United States have insisted on an uncontrollable right to pass up and down the river, from its source to the sea, yet this right, if admitted in its most ample latitude, will not secure to them the full advantages of navigation. The strength and rapidity of the current of the Mississippi are known to render its ascent so extremely difficult, that few vessels of burden have attempted to go as far as our boundary. This circumstance obliges the citizens of the Western country to carry their produce down the river in boats, from which it is put on board of ships capable of sustaining a sea voyage. It follows, therefore, that to enjoy the full benefits of navigation, some place should be fixed which sea vessels can approach without great inconvenience, where the American produce may be deposited until it is again shipped to be carried abroad. This great point was secured to us in the year 1795, by the Spanish Government, who agreed, in the treaty of San Lorenzo el Real, that Americans should have the right to deposit at New Orleans. This right has been used from that time till a late period; but the conduct of the Intendant at that place shows how liable the advantageous navigation of the river is to interruption, and strongly points out the impolicy of relying on a foreign nation for benefits, which our citizens have a right to expect should be secured to them by their own Government. It is hoped that the port of New Orleans may again be opened before any very material injuries arise; but should this be the case, or if, as the treaty provides, a new place of deposit should be assigned, the late occurrence shows the uncertainty of its continuance. Experience proves that the caprice or the interested views of a single officer may perpetually subject us to the alternative of submitting to injury, or of resorting to war.

The late violation of our treaty with Spain necessarily leads to the inquiry, how far the Western country may be affected in other points, not connected with New Orleans? The Mississippi Territory extends from the confines of Georgia to the river Mississippi, and from the 31st to the 35th degree of north latitude. It is estimated to contain more than fifty millions of acres, and, from its numerous advantages, must, one day or other, possess an immense population. The variety, richness, and abundance of its productions, hold out to settlers the strongest inducements to resort thither, and the United States may safely calculate on drawing a considerable revenue from the sale of lands in this, as well as in other

quarters of the Western country. The value of these, however, may be diminished or increased, and the sale impeded or advanced by the impression made on the public mind, by shutting the port of New Orleans, and by eventual measures which may be adopted to guard against similar injuries.

West Florida is bounded on the north by the Mississippi Territory, from which it is separated by no natural boundary; on the east by the river Appalachicola, which divides it from East Florida; on the west by the river Mississippi, and on the south by the Gulf of Mexico. The Mississippi Territory is intersected by many large and valuable rivers, which rise within its own boundaries and meander through it in a general direction, from north to south, but empty themselves into the Gulf of Mexico through the province of West Florida. In fact, with the exception of that part of the Territory which lies immediately on the Mississippi, the whole must depend on the Mobile and the Appalachicola, with their numerous branches, and on some other rivers of inferior note, for the means of sending its produce to market, and of returning to itself such foreign supplies as the necessities or convenience of its inhabitants may require. In these rivers, too, the Eastern parts of the State of Tennessee are deeply interested, as some of the great branches of the Mobile approach very near to some of those branches of the Tennessee river, which lie above the great Muscle shoals. Even if it should prove difficult to connect them, yet the land carriage will be shorter, and the route to the sea more direct than the river Tennessee furnishes. These rivers possess, likewise, an advantage which is denied to the Mississippi. As their sources are not in the mountains, and their course is through a level country, their currents are gentle, and the tide flows considerably above our boundary. This circumstance, together with the depth of water, which many of them afford, renders them accessible to sea vessels, and ships of two hundred tons burden may ascend for several hundred miles into the heart of the Mississippi Territory. These rivers, however, which run almost exclusively within our own limits, and which it would seem as if nature had intended for our own benefit, we must be indebted to others for the beneficial use of, so long as the province of West Florida shall continue in the possession of a foreign nation. If the province of West Florida were of itself an independent empire, it would be the interest of its Government to promote the freedom of trade, by laying open the mouths of the rivers to all nations; this having been the policy of those powers who possess the mouths of the Rhine, the Danube, the Po, and the Tagus, with some others. But the system of colonization which has always heretofore prevailed proves that the mother country is ever anxious to engross to itself the trade of its colonies, and affords us every reason to apprehend that Spain will not readily admit us to pass through her territory to carry on a trade either with each other or with foreign nations. This right we may insist on, and perhaps it may be conceded to us; but it is possible that it may be denied. At all events it may prove the source of endless disagreement and perpetual hostility.

In this respect East Florida may not perhaps be so important, but its acquisition is nevertheless deemed desirable. From its junction with the State of Georgia, at the river St. Mary's, it stretches nearly four hundred miles into the sea, forming a large peninsula, and has some very fine harbors. The southern point, Cape Florida, is not more than one hundred miles distant from the Havana, and the possession of it may be beneficial to us in relation to our trade with the West Indies. It would likewise make our whole territory compact, would add considerably to our sea-coast, and by giving us the Gulf of Mexico for our southern boundary, would render us less liable to attack, in what is now deemed the most vulnerable part of the Union.

From the foregoing view of facts, it must be seen that the possession of New Orleans and the Floridas will not only be required for the convenience of the United States, but will be demanded by their most imperious necessities. The Mississippi and its branches, with those of other rivers above referred to, drain an extent of country, not less, perhaps, than one half of our whole territory, containing at this time one-eighth of our population and progressing with a rapidity beyond the experience of any former time, or of any other nation. The Floridas and New Orleans command the only outlets to the sea, and our best interests require that we should get possession of them. This requisition, however, arises not from a disposition to increase our territory; for neither the Floridas nor New Orleans offer any other inducements than their mere geographical relation to the United States. But if we look forward to the free use of the Mississippi, the Mobile, the Appalachicola, and the other rivers of the West, by ourselves and our posterity, New Orleans and the Floridas must become a part of the United States, either by purchase or by conquest.

The great question, then, which presents itself is, shall we at this time lay the foundation for future peace by offering a fair and equivalent consideration; or shall we hereafter incur the hazards and the horrors of war? The Government of the United States is differently organized from any other in the world. Its object is the happiness of man: its policy and its interest, to pursue right by right means. War is the great scourge of the human race, and should never be resorted to but in cases of the most imperious necessity. A wise government will avoid it, when its views

can be attained by peaceful measures. Princes fight for glory, and the blood and treasure of their subjects is the price they pay. In all nations the people bear the burden of war, and in the United States the people rule. Their Representatives are the guardians of their rights, and it is the duty of those Representatives to provide against any event which may, even at a distant day, involve the interests and the happiness of the nation. We may, indeed, have our rights restored to us by treaty, but there is a want of fortitude in applying temporary remedies to permanent evils; thereby imposing on our posterity a burden which we ourselves ought to bear. If the purchase can be made, we ought not to hesitate. If the attempt should fail, we shall have discharged an important duty.

War may be the result, but the American nation, satisfied with our conduct, will be animated by one soul, and will unite all its energies in the contest. Foreign powers will be convinced that it is not a war of aggrandizement on our part, and will feel no unreasonable jealousies towards us. We shall have proved that our object was justice; it will be seen that our propositions were fair: and it will be acknowledged that our cause is honorable. Should alliances be necessary they may be advantageously formed. We shall have merited, and shall therefore possess, general confidence. Our measures will stand justified, not only to ourselves and our country, but to the world.

In another point of view, perhaps, it would be preferable to make the purchase, as it is believed that a smaller sum would be required for this subject, than would necessarily be expended, if we should attempt to take possession by force; the expenses of a war being, indeed, almost incalculable. The committee have no information before them, to ascertain the amount for which the purchase can be made, but it is hoped, that with the assistance of two millions of dollars in hand, this will not be unreasonable. A similar course was pursued for the purpose of settling our differences with the Regency of Algiers, by an appropriation of one million of dollars, prior to the commencement of the negotiation, and we have since experienced its beneficial effects.

Under these impressions, therefore, the committee recommend the adoption of the resolution referred to them in the following words, viz:

*Resolved*, That a sum of two millions of dollars in addition to the provision heretofore made, be appropriated to defray the expenses which may be incurred in relation to the intercourse between the United States and foreign nations; to be paid out of any money that may be in the treasury not otherwise appropriated, and to be applied under the direction of the President of the United States; who, if necessary is hereby authorized to borrow the same, or any part thereof, an account whereof, as soon as may be, shall be laid before Congress.<sup>[76]</sup>

### **THURSDAY, January 13.**

Another member, to wit, WILLIAM JONES, from Pennsylvania, appeared, and took his seat in the House.

#### ***Franking Privilege.***

Mr. RANDOLPH moved that the House resolve itself into a Committee of the Whole, on the amendments offered by the Senate to the bill making appropriations for the Military Establishment for the year 1803.

The first amendment, applying an addition of two thousand dollars for the purchase of books, maps, and instruments for the use of the War Department, was agreed to.

On the second, adding \$4,500 for the payment of postage on letters to and from the inspector, paymaster, &c., a lengthy debate ensued.

It was opposed on another ground—as being the duty of the Secretary of War to frank all letters going from the offices attached to the War Department, and, therefore, an appropriation was unnecessary.

In answer, it was observed, that the Government must, and ought, in some way, to support the expense of transporting returns, orders, and letters, relating to the military service; and, if they would not make an appropriation, it was proposed to extend the privilege of franking to the paymaster and inspector, through whom most of the details for the Army passed. That it was not the duty of the Secretary to frank letters and packages going from other offices—it was making a clerk of him—obliging him to do that which neither the law nor the constitution contemplated as being attached to his office; that it would encroach upon the time which, must necessarily be devoted to more important concerns. Besides, were he able and willing to perform the drudgery of that service, it was doubtful whether he had any legal or constitutional right to frank any packages, except those going immediately and directly from his own particular office, and that he might be liable to a penalty, though he should frank letters on public business, relating to the Army and War Department generally.

The extension of the privilege of franking was opposed by the Speaker, (Mr. MACON,) and others. They considered all franking as wrong, and liable to abuse—they would rather restrict than

extend this privilege.

In reply, it was said that, if confidence could not be placed in those officers, as to the privilege of franking, the imposition could not be prevented by referring their packets to the Secretary of War, or by paying their account current with the postmasters. It was evident the Government must pay those expenses; that it could make no difference as to the revenue, whether the Postmaster General's Department received and paid to the Treasury the money which was drawn from the contingent fund of the War Department, or from a special appropriation to defray the expenses of postage on military letters and packets, or whether they extended the privilege of franking to those officers from and through whom the military details must pass. In the former case, it was but taking from one pocket and putting in the other—in the latter, much trouble was saved; and, if the characters employed in those departments were worthy of a confidence which should entitle them to the places they hold, it could never be supposed that they would abuse the privilege of franking.

On motion of Mr. GRISWOLD, seconded by Mr. EUSTIS, the committee rose and the amendments from the Senate were recommitted to the Committee of Ways and Means.

### ***Amendment of the Bankrupt Act.***

Mr. RANDOLPH hoped the act would not be amended, but repealed. When it passed, he was one of those who entered his protest against it. He considered it in the nature of an *ex post facto* law—an allurement to fraud—tending to corrupt the morals of the community—to change the nature of contracts—to discharge men, not only for their obligations and their solemn promises, but to violate their oaths. And, because Congress had a right to enact such a law, would gentlemen say it was for the benefit of trade? Its operations had been the reverse. He had been waiting, ever since its establishment, for the merchants themselves to come forward and urge the repeal. A portion of them had petitioned for amendments, which, in fact, amounted to a request for a repeal.

Mr. S. SMITH thought any arguments on the merits of the question were premature. It was a subject of too much importance to be hurried in that manner. He hoped it would be recommitted.

Mr. NICHOLSON.—Many gentlemen appeared to wish a repeal, because there were some injurious provisions in the law; others wished it might be amended, believing it was capable of such alterations as would remove their objections. He thought it in some respects defective, and in others beneficial. If the evils to which it was subjected could be remedied, he should be for retaining, if not, for repealing the law.

Mr. SMILIE.—Considering the situation of the United States, he thought there never should have been a bankrupt law; but he doubted whether it would be expedient to repeal it at this time, but let it expire of itself. He believed much mischief had been produced by it, and if it was repealed now, he apprehended much more would ensue. Its natural life was but five years, and he thought it had better exist for that period than be repealed. He was for recommitment.

Mr. BAYARD agreed with the gentleman from Maryland, (Mr. NICHOLSON,) and thought the committee should have inquired what amendments were expedient. He was also forcibly impressed with the remarks of the gentleman from Pennsylvania, (Mr. SMILIE,) that it was better to suffer the law to expire of itself than repeal it now. He did not think that the House were prepared to go into a discussion. The argument of the gentleman from Virginia, (Mr. RANDOLPH,) that the bankrupt law was *ex post facto*, would not apply; but an act to repeal would in reality be an *ex post facto* law. Many merchants had entered into contracts, having an eye to the bankrupt law; many had embarked in perilous enterprises, knowing, that if they had made unfortunate calculations, that by a surrender of their effects they might again engage in commercial pursuits. And though a man might be discharged from his contracts, the sense of moral obligation was not impaired—in *foro conscientiæ* he was still answerable. He would not deny that frauds were committed, but for this should the honest debtor be eternally fettered with his debts? Should he, from unavoidable accidents, be cast into prison, and his family reduced to misery and distress? He was sure that the gentleman would revolt at the idea. Were the bankrupt law repealed, they must substitute the insolvent laws of the different States. Did not the insolvent laws of the Southern States hold out the same allurements to fraud as the general bankrupt law? By a repeal, they would increase the evils, and destroy the benefits of the general system. We were, said Mr. B., a great commercial Republic; the connection between merchants of the different States was increasing; therefore, the merchant of Georgia and the merchant of New Hampshire should be subjected to general regulations. Now, the merchant of Pennsylvania trusting the merchant of Virginia knew that his whole estate, real and personal, was liable for the payment of his debts; whereas, by the insolvent laws of that State, (Virginia,) the former might give an extensive credit; the latter might vest it all in land, which was intangible for the payment of his demand. The bankrupt act was a commercial law, extending equal benefits throughout the Union. If it was suffered to go back to the select committee, they would be able to give a clearer view of its advantages and defects. It was a subject of incalculable importance, both as it respected the debtor and creditor, and he hoped it would meet a candid and deliberate investigation.

Mr. RANDOLPH said that the affairs of the world had been found to suffer more from being put in the hands of those who were superior to the management of them, than from those who were inadequate to the execution of those objects intrusted to them. It had been allowed a sound rule of construction, that all general powers must be confined to particular exceptions. The constitution gave Congress the right of making a bankrupt law, but it did not give the power of

impairing contracts. He would exonerate the person, but never the property. It was the case in Virginia, when a man had surrendered all his property, his person was liberated, but his property never. And though we were a commercial Republic, was it not necessary to take care of the agricultural interest? How did the bankrupt law operate upon the planter? He knew by experience that it had been in many instances ruinous; that many planters had been *choused* out of their property by the operations of this very law. He had known from experience that many men had been buoyed up and supported by their friends till those friends were made good, and then suffered to fail, to the great injury of the former.

Mr. BACON was in favor of a reference to a Committee of the whole House.

Mr. S. SMITH said, gentlemen seemed to consider the bankrupt law as made entirely for the benefit of the debtor. That was an erroneous opinion. It was made also for the creditor: as such he advocated it. It enabled the creditor to secure his property, if he found the debtor was disposed to be fraudulent: he could apply for a commission of bankruptcy, and make the debtor account for the property in his possession. Besides, it reduced the creditors to an equality—a debtor could not secure his friends, and leave the rest of his creditors without a dollar. An instance of that kind had lately come within his knowledge. To the agricultural interest it held out still greater advantages. The farmer who brought his produce to market could always get *cash*, if he would sell for *cash*; if he chose to sell on a credit, he received a higher price in proportion; that increase of price was his insurance for selling on credit. He was for examining the subject, and endeavoring to remedy defects, rather than repealing.

Mr. HOLLAND moved that it be referred to a Committee of the whole House. Carried.

## FRIDAY, January 14.

### *Monument to Gen. Gates.*

Mr. VAN NESS moved the following resolution:

*Resolved*, That a monument be erected in commemoration of the patriotism, valor, and good conduct of Major General Horatio Gates, who, in the late Revolutionary war, commanded the American forces that captured General Burgoyne and the British army under his command, at Saratoga, in the State of New York.

*Ordered*, That the said motion be referred to the committee to whom was committed, on the tenth instant, the bill sent from the Senate, entitled "An act to carry into effect several resolutions of Congress for erecting monuments to the memories of the late Generals Wooster, Herkimer, Davidson, and Scriven."

## MONDAY, January 17.

Two other members, to wit: from Virginia SAMUEL J. CABELL, and from North Carolina ROBERT WILLIAMS, appeared, and took their seats in the House.

### *Emancipated Slaves from French West Indies.*

A memorial of sundry inhabitants of the town of Wilmington, in the State of North Carolina, was presented to the House and read, stating that a certain number of negroes or mulattoes, to whom emancipation has been granted by the Executive of the French Government in the Island of Guadaloupe, had been recently landed at the said town of Wilmington; that, in the opinion of the memorialists, much danger to the peace and safety of the people of the Southern States of the Union in particular, is justly to be apprehended from the admission of persons of that description into the United States, from the West India Islands; and praying that Congress will be pleased to take the premises into consideration, and adopt such effectual measures for prevention thereof, as they in their wisdom may deem proper.

*Ordered*, That the said memorial be referred to Mr. HILL, Mr. EARLY, Mr. HUGER, Mr. RANDOLPH, and Mr. CAMPBELL, to report their opinion thereupon to the House.

### *Case of John P. Van Ness.*

Mr. DAVIS called up the report of the Committee of Elections on the case of John P. Van Ness.

The House went into Committee of the Whole on the report, as follows:

"That, from the free concessions and agreement of the said member, it appears to your committee that he has accepted and exercised the office of a major of the militia, under the authority of the United States, within the Territory of Columbia; and that a paragraph in the sixth section of the first article of the constitution, which expressly provides, that 'No person holding any office under the United States, shall be a member of either House during his continuance in office,' does, in the opinion of your committee, render the acceptance and exercise of the office aforesaid incompatible with the holding, at the same time, of a seat in the House.

"Your committee, therefore, ask leave to submit to the House the following resolution, to wit:

*"Resolved,* That John. P. Van Ness, one of the members of this House, having accepted and exercised the office of major of militia, under the authority of the United States, within the Territory of Columbia, has thereby forfeited his right to a seat as a member of this House."

Mr. VAN NESS said he would make a remark or two that would, perhaps, remove any impressions of indelicacy on his part in retaining his seat under the circumstances in which he was placed. He considered himself as standing on that floor, not as a private individual, but as a Representative of New York; and as holding a trust which he was not authorized to abandon before a constitutional decision should be made. His constituents had placed him there as the guardian of their rights; and that trust he could not desert without a constitutional decision being made. If that decision should be adverse to his retaining his seat, in retiring from the House he should feel no regret but at leaving his constituents unrepresented during the remainder of the session, at not having discharged all the business assigned him by the Chair, and at ceasing to associate with gentlemen whom, for the most part, he respected. In a pecuniary view, the relinquishing his seat could not in the least affect him; nor should he consider it disreputable to leave a body without any imputation of dishonor or impropriety.

The reasons he should offer to the committee for retaining his seat, were few and simple. He thought the fair, liberal, and sound construction of the constitution did not affect his case; that the incapacitating provision only applied to civil offices. The constitution was only a digest of the most approved principles of the constitutions of the several States, in which the spirit of those constitutions were combined. Not one of those constitutions excluded from office those who had accepted military appointments, except in the regular service. He, therefore, felt a full conviction that it was never the intention of the framers of the Constitution of the United States to exclude militia officers from holding a seat in Congress. And however important it might be to adhere to the letter of the constitution, yet, when the spirit of it was so clear as it appeared to him, it ought to have weight in the decision of the question before the committee, which might affect objects of great importance. The right of every portion of the Union to a representation in that House was very important, and ought to be respected in all cases which may either directly or indirectly affect it. Gentlemen, therefore, ought to reflect before they deprive a part of the Union of this important right.

Had he supposed that the acceptance of an office in the militia would have interfered with his seat in that House, he would never have accepted it. He had never entertained a doubt on this point until broached in the House. Since then, he had heard various opinions. By what he had heard, his own opinion was not changed, as he believed that a true construction of the constitution would exclude his case. Should, however, a decision against his holding his seat be made, he should retire without any other regret than that which he had expressed. He had not risen to argue the case as an advocate, but merely to assign the grounds on which he had acted.

The question was then taken on the report of the Committee of Elections, which was agreed to without a division.

The committee rose, and the House immediately took up their report.

Mr. RANDOLPH observed that, on a precedent so important as was about to be established by the vote of the House, it was unnecessary to say a word. He wished, however, that the disposition of the House to exclude, by a unanimous vote, even the shadow of Executive influence, should be recorded on their journals; for which purpose he called the yeas and nays; which were taken, and were unanimously in favor of the resolution.

### **MONDAY, January 24.**

A new member, to wit, RICHARD WINN, returned to serve in this House as a member from South Carolina, in the room of Thomas Sumter, appointed a Senator of the United States, appeared, produced his credentials, and took his seat in the House.

#### ***Ohio Territorial Delegate unseated.***

On a motion made and seconded that the House do come to the following resolution:

*Resolved,* That, inasmuch as the late Territory of the United States north-west of the river Ohio have, by virtue of an act of Congress passed on the first day of May, one thousand eight hundred and two, formed a Constitution and State Government, and have thereby, and by virtue of an act of Congress aforesaid, become a separate and independent State, by the name of "Ohio," that PAUL FEARING, a member of this House, who was elected by the late Territorial Government of the Territory north-west of the river Ohio, is no longer entitled to a seat in this House:

*Ordered,* That the said motion be referred to the Committee of Elections: that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

#### ***French Spoliations.***

Mr. MITCHILL rose to address the House on a subject of a commercial nature. He alluded to the depredations committed upon the commerce of the United States, by French armed vessels,

during the late war in Europe. The gentlemen of the House would, he hoped, turn their attention, for a few minutes, to the numerous memorials received from our merchants during the last session, praying compensation for those losses. These papers were numerous and respectful, and came from a most valuable portion of our fellow-citizens. Their grievances had not hitherto been redressed, nor even inquired into with the minuteness which it appeared to him to deserve. It was true a committee, numerous and intelligent, had been appointed during the last session, to examine the matter of these applications. A report had been made to the House. This report was full of information concerning the political and commercial connection between the United States and France. It comprised a concise and correct history of what had been done on both sides, since the mutual misunderstandings arose. It was a valuable document, as far as it went; but it did not conclude with any recommendation of a mode of relief, or even of investigation. It stopped short with the historical narrative, without proposing even a mode of further inquiry. During the present session, nothing further had been done or attempted. Early after the Congress assembled, he had himself given notice of an intention to revive the subject. It was confessedly of magnitude enough to merit investigation. This notice, he remembered, was given previous to the receipt of the message from the Executive. But the multitude of public business that had grown out of that communication, added to other subjects, had so completely occupied his mind, that he had hitherto suffered it to pass on without bestowing on it the consideration which he owned that it deserved. He was now ready to make amends for this inadvertent or necessary, certainly not intentional, delay. He had heard, with satisfaction, the call of the gentleman from South Carolina (Mr. LOWNDES) for his (Mr. MITCHILL'S) promised motion. He acknowledged the hint of that gentleman to be seasonable, and felt himself obliged to him for acting the part of a good prompter. To show that gentleman that he had profited by the suggestion made on Friday last, he had now risen with an intention to lay a resolve upon the table. The object of the resolve was to cause an inquiry to be entered upon, by a special Committee of the House, as to what amount of property, or its value in current money, had been taken from the Americans during the late war by the cruisers of France. The committee could devise some mode of ascertaining the magnitude of the sufferings complained of. This he considered as the first step that ought to be taken, towards the procuring of redress for the petitioners. And, until this was taken, he believed nothing was likely to be done. Another object of the resolve he was about to offer, was to instruct the same committee to inquire into the different classes of captures and claims. He did not suppose that all the petitioners were entitled to compensation. Some of them, he knew, were not; but it was equally clear that some of them were. This complicated mass of applications could be examined by a committee, who could draw some distinctions that would be useful. They could tell, for instance, that one sort were lawful captures for and on account of contraband, others for want of a *rôle d'équipage*, others were taken wrongfully, without any cause whatever, and the like. Some judgment might be formed in this way of the probable amount that might be contemplated as bona fide claims. He suspected this amount would be but an inconsiderable part of the gross amount of captures. But whether it was large or small, he hoped an examination would be attempted; and, for that purpose, he moved the following resolution:

*Resolved*, That a committee be appointed to inquire by what means the value or amount of property taken from citizens of the United States by the French, during the late war in Europe, can be best ascertained, and the several sorts of captures distinguished and classed, and report their opinion thereon to this House, to the end that indemnification may be made.

Mr. MITCHILL then said, that he did not press an instant decision upon it; but wished it to lie a day or two on the table for consideration.

## **THURSDAY, January 27.**

### ***United States Judges.***

The several petitions of William Tilghman, Oliver Wolcott, Richard Bassett, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, Philip B. Key, William Griffith, Jeremiah Smith, and George K. Taylor, were presented to the House and read, respectively representing, that, by an act of Congress, passed on the thirteenth day of February, one thousand eight hundred and one, entitled "An act for the more convenient organization of the courts of the United States," certain judicial offices were created, and courts established, called Circuit Courts of the United States: That, in virtue of appointments made under the Constitution of the United States, the petitioners became vested with the offices so created, and received commissions, authorizing them to hold the same, with the emoluments thereunto appertaining, during their good behavior: That, during the last session, an act of Congress passed, by which the above-mentioned law was declared to be repealed; since which no law has been made for assigning to the petitioners the execution of any judicial function, nor has any provision been made for the payment of their stipulated compensations: That, under these circumstances, and finding it expressly declared in the Constitution of the United States that "the Judges both of the Supreme and Inferior Courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office," that petitioners are compelled to represent it as their opinion, that the rights secured to them by the constitution, as members of the Judicial Department, have been impaired: That, "with this sincere conviction, and influenced by a sense of public duty, they most respectfully request of Congress to review the existing laws, which respect the offices in question, and to

define the duties to be performed by the petitioners, by such provisions as shall be consistent with the constitution, and the convenient administration of justice:" That "the right of the petitioners to their compensations, they sincerely believe to be secured by the constitution, notwithstanding any modification of the Judicial Department, which, in the opinion of Congress, public convenience may recommend. This right, however, involving a personal interest, will cheerfully be submitted to Judicial examination and decision, in such manner as the wisdom and impartiality of Congress may prescribe: That judges should not be deprived of their offices or compensations, without misbehavior, appears, to the petitioners, to be among the first and best established principles of the American constitutions; and, in the various reforms they have undergone, it has been preserved and guarded with increased solicitude: That, on this basis, the Constitution of the United States has laid the foundation of the Judicial Department, and expressed its meaning in terms equally plain and peremptory:" That, "this being the deliberate and solemn opinion of the petitioners, the duty of their stations requires that they should express it to the Legislative body. They regret the necessity which compels them to make the representation; and they confide, that it will be attributed to a conviction that they ought not, voluntarily, to surrender rights and authorities intrusted to their protection, not for their personal advantage, but for the benefit of the community."

Mr. GRISWOLD moved a reference of the foregoing memorial to a select committee.

Mr. GREGG observed that, according to the usual mode of transacting business, it ought to go to the Committee of Claims. He, therefore, made that motion.

Mr. RANDOLPH did not think a select committee, or the Committee of Claims, a proper committee to whom to refer this memorial. What is its nature? Does it embrace any point of fact on which a committee is to make inquiry? No. It is a broad constitutional question. He was, therefore, in favor of having it examined, where it must eventually be settled, in the House. If, therefore, the memorial had any reference, it ought to be referred to a Committee of the whole House; to which effect he made a motion.

Mr. BACON hoped this last motion would not obtain. He did not know what there was in this petition to distinguish it from any other petition from any citizens of the United States. It was suggested that it involved a great constitutional question. He did not know that this was the case. Any thing might be made a constitutional question. But he thought this question had been already determined by the whole Legislature on the most mature deliberation. He saw nothing to distinguish this petition from other petitions. He would not say that it would be doing it too much honor, but it would be making too wide a difference between similar applications to adopt this course. He was, therefore, for pursuing the common course.

Mr. GRISWOLD had no objection to a reference of the memorial to a Committee of the Whole. Perhaps that would be the better mode. It was true, as the gentleman from Virginia had stated, that a very important constitutional question may arise on this memorial. Nor did he know, as represented by the gentleman from Massachusetts, (Mr. BACON,) that all the constitutional questions involved in the subject had been settled by the decision of the last session. He had understood the gentleman himself, in his speech, during the last session, to have said that the question of compensation was a very different question from that then under discussion. He was not absolutely certain that that gentleman expressed such an opinion, but he was certain that some gentlemen of the majority did. As the memorial was couched in terms of great respect, he trusted there would be no objection on the part of the House to give it a proper attention.

Mr. RANDOLPH would concisely answer the gentleman from Massachusetts. Does this question involve an inquiry either into matter of expediency or of fact? With respect to fact, they were all agreed. The judges make the question turn on a construction given to the constitution; it was, therefore, indubitably a constitutional question, on which a committee could not decide. The House, then, must decide. It appeared to him to be the plainest case on earth. No doubt constitutional questions may arise on many points. He hoped, therefore, the House would itself decide it. For his part, he considered the decision as already made. He hoped the memorial would be taken up that day.

Mr. SMILIE was against referring the memorial to a Committee of the Whole. If the subject had not been already maturely considered and discussed at the greatest length, he should be in favor of such a reference. But it had been most fully discussed. If they meant to sit there to the neglect of the important business, they ought to go into Committee of the Whole; but if they meant to do the public business, they ought not. Gentlemen should recollect the time spent in this discussion the last session.

Mr. DANA thought the gentleman from Pennsylvania did not calculate correctly. The same object, as to debate, would be attained in the House as in a Committee of the Whole. For he would recollect, that notwithstanding the length of the debate of the last session, and though the House were in Committee, no gentleman had spoken more than once; and, according to the rules of the House, every member had a right to speak twice.

Mr. DANA said that he agreed with the gentleman from Virginia in the ideas he had expressed.

The question was then taken on Mr. RANDOLPH'S motion to refer the memorial to a Committee of the whole House, and carried—ayes 53. [Pg 729]

The SPEAKER inquired for what day it should be made the order.

Mr. RANDOLPH said, to-day.

Mr. GRISWOLD, to-morrow.



The question was taken on Mr. GRISWOLD's motion, and lost—ayes 38, noes 51.

Mr. HUGER moved that it should be the order for Monday. It must be evident, that the members had not yet sufficiently attended to the subject to be prepared for a decision. It was a very different question from that decided the last session. It certainly required some little time to enable gentlemen to revolve it in their minds. It was not usual to force decisions in that way. If it was the object of gentlemen merely to vote it out, a majority must do as they please; but if they were disposed to pay it ordinary respect, they certainly could not urge so precipitate a discussion.

Mr. RANDOLPH asked if it were in order, after the question had been taken, to name another day. He said he would not have urged an immediate consideration of the memorial, but for the conviction that the subject, in all its bearings, had undergone the maturest investigation, not only of every member on that floor, but of every thinking man in the United States.

The SPEAKER decided that the moving another day was not in order.

The question on going into a Committee of the Whole this day, was then carried without a division. Whereupon,

Mr. RANDOLPH moved that the House should go into committee immediately.

The SPEAKER said the unfinished business of yesterday would be the first acted upon unless postponed.

Mr. RANDOLPH moved the postponement of the unfinished business till to-morrow. Carried.

The House then resolved itself into a Committee of the Whole on the memorial—Mr. DAWSON in the chair.

The memorial of William Tilghman was read; which was accompanied by ten other *verbatim* memorials, signed by Oliver Wolcott, Jeremiah Smith, Richard Bassett, Philip B. Key, George K. Taylor, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, and William Griffiths.

Mr. GRISWOLD said, he did not think it proper to enter into an extensive discussion of the memorial. The haste with which the consideration of it was urged, appeared to him indicative of a disposition to reject it altogether. Under such circumstances discussion would be useless. At the same time, he would remark, that it involved a question very different from that decided at the last session. It had, then, been decided that the Legislature had the constitutional right to deprive the judges of all Judicial power; but the question never was settled, that, notwithstanding the judges should be deprived of all their Judicial powers, they were not entitled to the compensation guaranteed by the constitution. This involved a distinct point, which ought not to be hastily acted upon. The judges had never been heard before Congress on this question. They had a right by the constitution to be heard, and to be heard by counsel, he presumed, if they desired it. He had thought the House would have given time for them to be heard. But they had determined to proceed immediately. He should, therefore, be content with moving two resolutions.

Mr. GRISWOLD here read his resolutions as follows:

*Resolved*, That provision ought to be made by law to define the powers to be exercised by the judges of the circuit courts of the United States, who were appointed under an act, entitled "An act to provide for the more convenient organization of the courts of the United States."

*Resolved*, That provision ought to be made by law for submitting to judicial decision the right of the judges of the circuit court to their compensations.

Mr. RANDOLPH said, the provision desired by the gentleman from Connecticut already exists. The Legislature has defined the powers of the late circuit judges, and has decided that they shall not execute any powers. Those powers are transferred to other courts. Unless the House had changed their opinion, it was not necessary to go into any discussion on this point. The readiest and fairest course for gentlemen would be to propose to repeal the law of the last session, and restore the judges.

The question was then taken on the first resolution, and lost—ayes 34, noes 56.

The CHAIRMAN then read the second resolution, as follows:

*Resolved*, That provision ought to be made by law for submitting to judicial decision the right of the judges of the circuit court to their compensations.

Mr. RANDOLPH said he was not ready for the question. He had one or two remarks to offer, which had suggested themselves during the reading of the resolution. It had been repeatedly decided that the United States would not permit themselves to be brought into their own courts. Wherefore grant to a particular class of persons, in a single case, that which had ever been refused to the war-worn soldier of the Revolution; especially when it should be recollected that this case, involving the interests of judges, as a *caste*, could not be decided by any judicial tribunal free from bias?

A doctrine is advanced new to this House, which I have been told originated with an eminent character on the bench of the United States; I did not hear the gentleman from Connecticut distinctly, but I understand him as subscribing to it; that Congress may, constitutionally, deprive a judge of all authority, and transfer to another his powers and duties, but that the office

nevertheless remains, and the judge, of course, entitled to his compensation. The constitution says that "the judges shall hold their offices during good behavior, and shall, for their services, receive a compensation." Without entering into a question which has already been so fully discussed, he would barely remark, that if the position just advanced be correct, the words "compensation" and "office," which the constitution supposes, and every one believes, to have distinct and different meanings, must be convertible terms. For when the powers and duties are taken away, what, let me ask, is left but a salary? The word office must be rendered by the word salary.

Mr. DANA.—The question of compensation to the judges involved considerations very distinct from those ordinarily decided upon in that House. Most of the individual cases brought here were made in pursuance of some particular law, and did not call in question the authority of Congress. If the case of the judges were to be referred to any tribunal, the right to refer was founded on the principle of controlling the decisions of the Legislature in case those decisions should appear to the tribunal to be unconstitutional. It was, therefore, in this view not proper to refer the question to a tribunal dependent on the body to be controlled. This was the only course that would probably be deemed impartial by all the parties concerned.

Mr. BACON said the true question was on the constitutionality of the repealing law. One Congress had passed a law constituting certain courts, which at the last session had been repealed. Now of what do courts consist? Of judges, who are officers of the court. The question is, whether by abolishing the courts, these officers are abolished. He supposed they were. He considered the terms as synonymous. Now the question is whether, if the offices are abolished, those who filled them before they were abolished are entitled to salaries? That is the only question that remains undetermined. What does the constitution say? Admitting the offices abolished, it says: "The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Does it not follow that if they continue in office they are entitled to a salary for the services they perform. If they do not continue in office they are entitled to nothing, and the constitution has no reference to them. This is the true question.

Mr. SMILIE would ask whether the Supreme Court in such a case as this could be denominated an impartial tribunal? He asked if they had not seen the time when, during the disputes between the clergy and laity, no wise man, not of the clerical order, would have trusted himself in the hands of the clergy? The same remark applied to the military, and also, with equal force, to the Judges of the Supreme Court. He really, however, thought that the judges would not receive the salaries, even if they were offered to them, as it would be contrary to every idea of patriotism. He, therefore, considered the application as a mere matter of form.

Mr. NICHOLSON.—The resolution contemplated giving the power to try the right of the judges to their claims; but the great object in reality was to authorize the judges of the Supreme Court to decide upon the constitutionality of the repealing act. Let this object, then, be avowed; let it be so declared openly, and not introduced in this incidental manner. From the remarks made last year by gentlemen on the other side of the House, it was a little surprising that this application should be made, for it was then strenuously contended that the Supreme Court had the right to decide upon the constitutionality of all laws. Why, then, ask for it? If they have this right we need not confer it; if they have it not, we cannot give it them. If the petitioning judges can bring their case before the Supreme Court, let them do so; my consent shall never authorize it. If the Supreme Court shall arrogate this power to themselves, and declare our law to be unconstitutional, it will then behoove us to act. Our duty is defined.

Mr. EUSTIS said when the office of judge was abolished all his duties ceased. The salary allowed was a compensation for services. Now when there were no services to be performed, what salary could there be allowed, or what retribution demanded? on what did this claim rest? On the opinion of the judges. But by the decision of the last winter their offices were abolished; it followed, therefore, of consequence, that their salaries ceased too. This was a plain and simple question. He considered the memorial as the protest of the judges against this decision. As such, he was willing that it should rest on the files of the House, and instead of being offended at this treatment the judges ought to be thankful.

Mr. DANA said the ideas of the gentleman from Massachusetts were in one respect correct. The memorial of the judges was a protest against the law passed by Congress. It was proper they should make it, so far as they confined themselves to language not indecorous or disrespectful. He would admit likewise that the question of powers decided the question of salary; others however entertained a different opinion. Why object then, in a case where there was a difference of opinion, to refer the decision to an impartial tribunal? The only question is whether in a contest for power, you, the Legislature, will claim the exclusive exercise of power, and whether, even if you shall exceed the constitutional limits, you will assert the entire right of saying so, or whether you will refer it to a tribunal which shall be an umpire between those who hold different opinions?

Mr. ALSTON said the resolution required amendment. As it now stood, it would appear that all the late judges of the circuit court claimed a compensation for services not rendered. He believed this was not the case. There were some of those judges who had made no such request. He, therefore, moved to insert the name of those who had presented memorials; also to insert the word "late" before the word "judges."

Carried without a division.

The resolution as amended stood thus:

*Resolved*, That provision ought to be made by law for submitting to judicial decision the right of William Tilghman, Oliver Wolcott, Jeremiah Smith, Richard Bassett, Philip B. Key, George K. Taylor, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, and William Griffiths, late judges of the circuit court appointed under an act entitled "An act to provide for the more convenient organization of the courts of the United States passed on the thirteenth day of February, 1801;" which said act was repealed at the last session of Congress, to their compensations.

On which the question being put, it was lost—ayes 35 noes 57.

Mr. VARNUM observed that the memorial contained two principles, both of which had been negatived. To draw the attention to a final decision he would move another resolution, to wit:

*Resolved*, That the prayer of the petition of William Tilghman and others, (naming them,) late judges of the circuit courts of the United States, ought not to be granted, and that the petitioners have leave to withdraw their petitions.

Mr. T. MORRIS moved that the committee should rise and report progress, that the petition might be printed. Negatived without a division.

The resolution was then carried without a division, when the committee rose and reported it.

The House immediately took it into consideration; when

Mr. RANDOLPH moved to strike out the words, "late judges of the circuit courts of the United States."

Mr. GRISWOLD said he presumed it was not the object to expunge all evidence of these gentlemen being judges, or late judges of the circuit courts of the United States, and yet that would appear to be the effect of the motion. He must, therefore, call for the yeas and nays, which would make that fact be recorded on the journals.

Mr. RANDOLPH said he had made the motion that the resolution might conform to the prayer of the petition. Had the memorialists called themselves late judges, he should have had no objection to their being so designated in the resolution. His wish was to style them in the resolution as they had styled themselves.

Mr. GRISWOLD said, though they had not expressly styled themselves circuit judges, yet they had stated that they had been appointed circuit judges under a law of the United States. They had therefore virtually so styled themselves.

A few words were added by Mr. EUSTIS against it, and by Messrs. RANDOLPH and NICHOLSON in favor of striking out the words, when the question was taken by yeas and nays and carried—yeas 50, nays 47.

And then the main question being taken, that the House do agree to the resolution reported from the Committee of the whole House, amended to read as follows:

*Resolved*, That the prayer of the petitions of William Tilghman, Oliver Wolcott, Richard Bassett, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, Philip B. Key, William Griffith, Jeremiah Smith and George K. Taylor, ought not to be granted; and that the petitioners have leave to withdraw their petitions.

It was resolved in the affirmative, yeas 61, nays 37, as follows:

YEAS.—Willis Alston, John Archer, John Bacon, Phanael Bishop, Walter Bowie, Richard Brent, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, John Clopton, John Condit, Richard Cutts, Thomas T. Davis, John Dawson, William Dickson, Peter Early, Lucas Elmendorph, Ebenezer Elmer, William Eustis, Edwin Gray, Andrew Gregg, John A. Hanna, Daniel Heister, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, George Jackson, Michael Leib, David Meriwether, Samuel L. Mitchill, Thomas Moore, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, John Randolph, jr., John Smilie, Israel Smith, John Smith, (of New York,) John Smith, (of Virginia,) Josiah Smith, Samuel Smith, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, Robert Williams, Richard Winn, and Thomas Wynns.

NAYS.—Thomas Boude, John Campbell, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Abiel Foster, Calvin Goddard, Roger Griswold, William Barry Grove, Seth Hastings, Joseph Hemphill, Archibald Henderson, William H. Hill, Benjamin Huger, Samuel Hunt, Thomas Lowndes, Ebenezer Mattoon, Lewis R. Morris, Thomas Morris, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, William Shepard, John Cotton Smith, John Stanley, John Stratton, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, Thomas Tillinghast, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Henry Woods.

**FRIDAY, January 28.**

Mr. SPEAKER laid before the House a letter from Col. Humphreys, late Minister at the Court of Madrid, stating that, when he was about to leave that Court, the Minister of State urged his acceptance of the customary present from His Majesty. Col. Humphreys informed him that he could not, consistently with the constitution of his Government, accept the present. The Minister continued to press the acceptance, and urged that as he was no longer an officer of the United States, there could be no impropriety in his receiving it. Col. H. replied that, though he was then out of office, there would still, in his opinion, be an indelicacy in the acceptance, and that if he should receive the present designed for him, he should consider it as his duty to deliver it into the hands of the President of the United States, to be disposed of at the pleasure of the Government.

Under these circumstances he left the Court of Madrid; and upon his arrival in the United States, he found a casket of valuable female ornaments addressed to Mrs. Humphreys, which, though unaccompanied by any letter, he presumed to be a present from the Queen of Spain. Doubting the propriety of accepting it under such circumstances, Mrs. Humphreys presented the casket to the President of the United States, who put it into the hands of the Secretary of State. The Secretary of State declining to decide the constitutional question, whether Mr. Humphreys could with propriety retain it, ordered it to be returned to him for the purpose of being sent back to Spain, or otherwise disposed of as he may think proper. Mr. Humphreys refused to receive it back on such terms: it consequently remains with the chief clerk in the Department of State, and Mr. H. now requests Congress to give orders for sending it back to Spain, or for disposing of it in such other way as they may think proper. He makes the same request respecting a sword presented him by the Dey of Algiers, which is also in the hands of the chief clerk of the Department of State, under similar circumstances.

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The subject, after considerable conversation in the House, was referred to a select committee to report their opinion thereon.

### ***French Spoliations.***

Mr. MITCHILL called up his resolution respecting French depredations, as follows:

*"Resolved,* That a committee be appointed to inquire by what means the value or amount of property taken from citizens of the United States by the French during the late war in Europe can be best ascertained, and the several sorts of captures distinguished and classed, and report thereon to this House, to the end that indemnification be made."

Mr. BAYARD offered an amendment, which was agreed to, striking out the latter part of the resolution, and instructing the committee to report their opinion whether indemnification shall be made.

After a very desultory debate on referring the resolution to a Committee of the Whole, or to a select committee, and the rejection of a motion of reference to a Committee of the Whole, the question was taken on the resolution as amended, which was determined in the negative—ayes 34, noes 39.

The House adjourned.

## **MONDAY, January 31.**

Another member, to wit, JOHN FOWLER, from Kentucky, appeared, and took his seat in the House.

### ***French Spoliations.***

Mr. BAYARD observed that a resolution offered some days since by a gentleman from New York, (Mr. MITCHILL,) of considerable national, and of great individual importance to a large description of citizens, appeared to him to have been disagreed to more from considerations of form than substance; as the merits of the subject were not, on that occasion, brought into discussion. In order to meet the ideas of gentlemen who desired, in the first instance, to decide the principle whether indemnity ought to be made to our merchants, he submitted the following resolution:

*Resolved,* That provision ought to be made by law, to indemnify the citizens of the United States who, in carrying on a lawful trade to foreign parts, suffered losses by the seizure of their property made by unauthorized French cruisers, or by any French cruiser, without sufficient cause, in violation of the rights of American commerce, during the late war between Great Britain and the French Republic, and whose claims for indemnity against the said Republic were renounced by the United States, by their acceptance of the ratification of the treaty lately made with France.

Mr. BAYARD moved the taking up the resolution for consideration; on which the House divided—yeas 39, nays 45. Resolution ordered to lie on the table.

About 3 o'clock the galleries were cleared, and the House remained with closed doors till 4 o'clock, when they adjourned.

## **WEDNESDAY, February 2.**

## *French Spoliations.*

Mr. HILL called for the order of the day on the bill to prohibit the importation of certain persons, whose admission is prohibited by laws of the States.

Mr. BAYARD requested the gentleman to waive his call for one moment, to enable the House to take his resolution respecting French spoliations, laid some days since on the table, into consideration for the sole purpose of giving it a proper disposition. His object, some days since, when he called it up, was to have it referred to a Committee of the whole House, not to urge its discussion on that day. His object was now the same, and his sole wish was that it should be referred, and a day named for its consideration. As, however, said Mr. B., it may be voted down now, as it then was, without any reasons being assigned, gentlemen will excuse me for calling the yeas and nays. I hope gentlemen will so far at least comply with the forms of justice as to suffer the case to be considered, whatever may be their ultimate decision upon it.

Mr. RANDOLPH said he would ask the gentleman from Delaware, whether he had seen any indisposition in that House to discuss the subject? For his part he had seen none, either in the House or in any individual member. He felt no objection to take up the subject at any time, and to discuss, or rather to hear the gentleman from Delaware discuss it. He hoped, therefore, the gentleman would not persist in taking up the time of the House by calling the yeas and nays.

Mr. BAYARD said he had seen an indisposition in the House to discuss the subject; and the reason why the gentleman from Virginia had not seen it was, that he was not in his place on the day he had before moved that the resolution should be taken up. Had he been in his place, he would have seen that a motion to take it into consideration had been rejected without a single reason being assigned. But under the assurance of the gentleman, that there was no aversion to consider the subject, he would waive his call for the yeas and nays.

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Mr. RANDOLPH said he spoke only for himself.

Mr. BAYARD replied that he then persisted in the call.

The yeas and nays were then taken on taking up the resolution; and were—yeas 65, nays 26.

The resolution was referred to the Committee of the Whole without opposition.

When Mr. BAYARD moved that it be made the order for Monday next.

Mr. R. WILLIAMS moved the 3d of March.

Mr. GREGG thought it was best to take the resolution up fairly and decide it at once.

Mr. R. WILLIAMS said he was willing to meet it fairly, but he thought one day sufficient for the investigation.

Mr. HUGER had no hesitation in saying this was a question of great moment, and one well worthy of the deliberate attention of the House. To be sure, if there was a great press of important business, he would acquiesce in its postponement. But this was not the case. There was no business before the House of pressing importance. He was in favor of a fair and full investigation of the subject. The motion to make it the order of the day for the last day of the session, when the press of other business would absolutely preclude any attention to it, was tantamount to a refusal of all investigation whatever. Unless the motion was withdrawn, he would, therefore, call for the yeas and nays.

Mr. BACON said his mind preponderated against the claim. But to him it appeared that a postponement to such a day, would be the same as declaring the claim should not be attended to. If the claim should be sustained by the vote of the House, it would surely require more than one day to make the necessary arrangements for carrying it into the shape of a law.

Mr. BAYARD.—No doubt the observation of the gentleman from Massachusetts is correct, that a postponement to the last day of the session is, in effect, precisely the same as to reject the claim altogether. Gentlemen ought to consider that our sole object is to bring into discussion the claims of our citizens. I do not undertake to express any opinion of the validity of the claims. No member on the floor is less personally or locally interested than I am. But I do think that no claim whatever, of the meanest nature, should be decided upon until the party is heard. Many of our citizens, who have incurred losses, suppose they have an equitable claim on the Government. The claims have been announced in the public papers, and in petitions on the files of this House. Is it then for this House to say they will not attend to the petitions of our citizens? For what do we ask? Simply for a discussion, and that a decision shall not be made until those who consider themselves aggrieved shall be heard. Are gentlemen unwilling to trust themselves, lest their own consciences should compel them to an act of justice? But I will abstain from going into the merits of the subject. I will only repeat that there is no petition, however worthless, but the House pays it a decent respect, by referring it, and allowing time for its examination. Will they then, in a case of such magnitude as this, where there are so many claims, so variously characterized, will they refuse this ordinary measure of respect? I will expect a different decision from the justice and candor of the House.

Mr. R. WILLIAMS said he would withdraw his motion, and move that the subject be made the order of the day, for the first day of March, which would allow sufficient time for a full and fair investigation.

Mr. SMILIE did not know what the gentleman from Delaware meant, when he said we were not willing to trust our consciences. He hoped every gentleman had as good a conscience as the gentleman himself. For his own part, if there was time to discuss this subject, he would be willing

to hear it discussed, and it would then appear who brought the merchants into their misfortunes, and who occasioned their losses. But, as he believed there was not now time, he thought it best to postpone the consideration of the subject until the next session, when it would fully appear who had been the friends, and who the enemies of our merchants. In the mean time he would only add that he would never be one of those who would consent to tax the agricultural interests of the country to pay the merchants.

Mr. RUTLEDGE observed that it was important that our merchants should be extricated from their present embarrassments. They wish to know the disposition of Congress on their claims. This cannot be done if the present motion obtain; for the subject, in that event, will be disposed of this session precisely as it was the last. It was then referred, at an early period, to a committee with whom it slept until near the close of the session, when a report, merely of facts, was made. The report was then made at a late day of the session, and the House never took it up. It is now proposed to be postponed until a very late day of this session, and it will then not be taken up.

Whatever the opinions of some gentlemen may be, it is a fact that many honorable and unfortunate merchants are now struggling with their misfortunes, produced by French spoliations, whom the hope of relief from Government has saved from ruin. They wish to know their fate, and no longer to be kept in suspense. Let their claims then be decided at once; and if gentlemen are ready to say they shall not be indemnified for losses, which, but for the renunciation of the treaty, they would have been indemnified for by France, let them say so. It is known that France would have indemnified for these losses, but for the treaty. The most respectable letters have been received from France to this effect; and Mr. R. said the fact was within his own personal knowledge. Under these circumstances the claims ought to be taken up and decided upon speedily. If the gentlemen were serious in naming so late a day, the House must be troubled with the calling of the yeas and nays; as it was impossible to expect that any thing that would be effectual could be done after the first of March, as all the measures adopted by the House required the concurrence of the Senate and the details of a law.

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Mr. R. WILLIAMS said he never permitted himself to propose any thing to that House in which he was not serious. He was serious in his belief that if his motion should be adopted there would be full time allowed for an investigation of the subject. He was in favor of the distant day he had named, inasmuch as he was convinced that it would protect the House from the unnecessary consumption of a great deal of time, and which, if taken up now, would interfere with the transaction of much important business. Full time would still be allowed to decide the question of indemnity. He did not know that more was required this session by any body. He had not heard any member say that a law would be necessary this session. All that was required was a decision preparatory to a law. In his opinion this was an improper time to discuss the merits of the subject; he should, therefore, make no reply to observations of this nature, which, he thought, had been improperly offered at this stage of the business.

Mr. BAYARD said he had not fallen into the same mistake with his honorable friend from South Carolina, in considering the gentleman from North Carolina in earnest in the motion he had made. He had not thought him serious, as the day named by him was so late as not to allow time sufficient for a fair discussion. The gentleman was not a new member, and his experience could tell him how imperiously the House were occupied, during the last two or three days of its sitting, in detail indispensably necessary to complete business already begun. He had seldom known the close of a session, when it had not been necessary to sit on Sunday or till midnight. How then could it be expected that, at such a period, even the semblance of justice could be done to the subject? Whereas, if it were earlier attended to, they might consult their own convenience. If it happened, as had heretofore been the case, that they had more time than they knew what to do with, a much earlier day could be fixed on. But should the subject be postponed till the first day of March, it might be said, if the House should not then go into committee on it, that a day so late had been named with a view of deferring the subject to the next session. While, if the House, actuated by magnanimity and justice, shall go into its consideration, it would put it in the power of a minority, or even a few members, to prevent the transaction of other important business. Mr. B. said he would not pledge himself; but he rather thought the subject could be discussed in the course of one day.

The gentleman from Pennsylvania had mistaken him on the point of conscience. This was not astonishing, as that gentleman often made mistakes. He had said nothing about the conscience of that gentleman, as he knew nothing about it. He was asked whether gentlemen were unwilling to trust themselves, lest their own consciences should compel them to do an act of justice. This was all he had said, and it had not been said with any view to impeach the conscience of any gentleman on the subject.

Mr. BACON hoped this business would be so conducted as to show a disposition on the part of the House to meet these claims on honorable and fair principles, and so as to manifest no indisposition to a fair and full discussion. It was undoubtedly a serious question. There were a number of respectable characters interested in the decision—respectable, because citizens of the United States. He hoped their claims would be treated with all the candor and liberality they had a right to expect. He apprehended that two or three days were not sufficient, amidst the crowd of other business at the end of a session, for a fair and full examination. He should, therefore, vote against the motion.

Mr. DAWSON hoped the motion would prevail. A resolution in a great measure similar to that now proposed by the gentleman from Delaware had been offered some time since by a gentleman from New York. It was moved to refer that motion to a Committee of the Whole and negatived; afterwards a motion was made to refer it to a select committee, which was also negatived. He did

conclude, from these decisions, that a majority of the House were not disposed to discuss the merits of the question this session. He believed this was still the sentiment of the majority, who considered the subject as not yet ripe for decision. He, therefore, thought the taking it up at an early day would only serve to waste time.

Mr. GREGG said, that so far as his mind was made up, he was against the claim; but he was, notwithstanding, in favor of a full discussion of it. The subject had been attended to. The committee appointed last session had gone into a laborious investigation of it; and had made a report containing very important statements and facts. He wished the consideration to be so far delayed, as to allow time for the printing of this report. He was against a postponement to the first day of March; but thought the second Monday in February would answer.

Mr. THATCHER said he felt gratified at the House manifesting more liberality in giving an opportunity now to discuss the subject than had been manifested before. Attempts made during the last session to discuss the subject had ended in nothing. This session, when the gentleman from New York (Mr. MITCHILL) had offered a resolution, it had been negatived. The motion of the gentleman from Delaware (Mr. BAYARD) to take up the present resolution had also been negatived. But now a considerable majority were for taking it into consideration. He was, however, surprised at the motions for making the consideration of the subject the order of the day for the first and third of March, as they would in effect frustrate all discussion, from the press of other business. The subject was of infinite importance; millions depend upon the decision. The merchants were anxious to know the result. A state of suspense was, of all states, most painful to them. Why then put off the decision of a claim in his opinion just, and to which the House ought not to shut their ears?

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Mr. EUSTIS said, whatever may have been the intention of the mover to postpone to the first of March, and of the intentions of gentlemen on this or any other occasion, he had no disposition to inquire—the tendency of the postponement will be to preclude a deliberate discussion. Those more conversant with the course of business knew, better than he did, the pressure of business which necessarily crowded the last days of a session; and he was more averse to the motion from the avowal of an honorable gentleman from Virginia, (Mr. DAWSON,) who had risen to support the motion, and avowed his principal reason to be a conviction that the present Congress ought not to take any decisive measures on the subject of the claims. He differed widely from that gentleman. Independently of the magnitude and extent of these claims, and of the situation of those concerned, the House were called upon by a sense of public duty to bestow upon them a cool and deliberate consideration, which on ordinary occasions was extended to applications of an individual and inferior nature. The common course of business brings this subject to view. It will be recollected that, at the last session of Congress, the memorials of the claimants were referred to the consideration of a select committee. That committee reported a state of facts, and closed their report with the following words:

"Upon the whole view of the case, the committee submit it to the House, to determine whether the Government of the United States are in any respect bound to indemnify the memorialists; and whether there be any ground for discrimination between the cases of losses sustained before the acts of the 28th of May, 1798, the 7th of July, 1798, and the 9th of July, 1798; and cases of losses sustained after those periods."

From the late day of the session in which this report was made, no order was taken on it, no discussion was had. By this part of the report facts are offered for consideration; data are furnished; a discrimination, in point of time, and of course in point of merit, is made; and the final determination is submitted to the House.

A sense of justice to the memorialists and a strong sense of public duty require that we meet the question and come to a decision. Those who appear already to have judged the question may possibly see in the statements which have been made, and the arguments by which the claim will be supported, reasons to alter their opinions. In any event, and especially after a discussion, in case of an adherence to those opinions they appear already to have formed, if they fail to produce conviction on others, the reasons on which they ground those opinions may be useful to the House, and will accompany and justify the vote they shall finally give. When the question shall be decided (and I hope it will be in favor of an earlier day than that moved for) I shall move that the report of the committee of the last winter shall be referred to the Committee of the Whole, together with the resolution under consideration. It will be also proper at that time to give a second reading to the memorials which have been presented—the grounds on which they rest their claim will be brought again into view, and by giving them a free discussion and consideration we shall be better enabled to come to a just decision. These claims, like conscience, are of no party; the misfortune has been indiscriminate, and it is to be expected the final determination will be just.

Mr. HOLLAND advocated a full discussion, and the assignment of an early day.

When the yeas and nays were taken, on making it the order of the day for the first of March, and it was decided in the negative—yeas 18, nays 74.

On motion of Mr. BAYARD it was made the order for the second Monday in February.

**THURSDAY, February 3.**

***Amy Dardin's Claim.***

A petition of Amy Dardin, of the county of Mecklenburg, in the State of Virginia, widow and relict of David Dardin, deceased, was presented to the House and read, praying compensation for the value of a stud horse, called Romulus, the property of the deceased, which was impressed into the service of the Southern army under the command of Major General Greene, by order of James Gunn, captain in a regiment of Continental cavalry, some time in the month of July, one thousand seven hundred and eighty-one. Referred to the Committee of Claims.

**TUESDAY, February 8.**

***District of Columbia.***

The House went into a Committee of the Whole on the following resolutions, offered by Mr. BACON:

"*Resolved*, That it is expedient for Congress to recede to the State of Virginia the jurisdiction of that part of the Territory of Columbia, which was ceded to the United States by the said State of Virginia, by an act passed the third day of December in the year 1789, entitled, "An act for the cession of ten miles square, or any lesser quantity of territory, within this State, to the United States in Congress assembled, for the permanent seat of the General Government." *Provided*, the said State of Virginia shall consent and agree thereto.

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"*Resolved*, That it is expedient for Congress to recede to the State of Maryland the jurisdiction of that part of Columbia which was ceded to the United States by the said State of Maryland, by an act passed the 19th day of December, in the year 1791, entitled "An act concerning the Territory of Columbia and the City of Washington:" *Provided*, That said State of Maryland shall consent and agree thereto."

The first resolution being read,

Mr. SMILIE said it was not his wish to take up the time of the House, but barely to assign, in a few words, his reasons for the vote he should give. In the last Congress he had voted against the assumption, and he had heard no reasons since to change his opinion on the propriety of that vote. He should, therefore, vote now for a retrocession. He never could understand the reason for giving Congress an exclusive jurisdiction over ten miles square. He believed there was but one reason: It had been thought good policy to introduce this article into the constitution to facilitate its adoption, as it was known that all parts of the Union were anxious to have the seat of Government. It did not appear to him, in any proper point of view, necessary that Congress should possess such exclusive jurisdiction. There was no doubt that, let Congress sit where they would, they would always have sufficient power to protect themselves. Unfortunately, however, there was on this subject an association of ideas in the minds of many persons, not in the least connected, which was, that the residence of Congress in this place, and their possessing exclusive jurisdiction, was the same thing. If the exercise of exclusive jurisdiction could have any effect on his mind, as to the other point, it would be directly opposite, as he would much rather sit here without than with exclusive jurisdiction, as we cannot possess this authority without depriving the citizens of rights which were the most dear to them. When he looked around him, and saw no man, unless a stranger, who was not a political slave, he felt the most painful sensations. Under our exercise of exclusive jurisdiction the citizens here are deprived of all political rights, nor can we confer them. If Congress can derive no solid benefit from the exercise of this power, why keep the people in this degraded situation? It is true, this place may be settled by foreigners; but can we suppose that any native citizen, who values his political rights, will come here? For the honor of the country, he must suppose there would be none. Why not then restore the people to their former condition? Mr. S. concluded by declaring that the act of retrocession would have no effect upon his mind as to staying here.

Mr. BACON said he would state, in a few words, the reasons that influenced him in submitting these resolutions. In the first place, he knew of no advantage which the United States derived from retaining the exclusive jurisdiction of the District. Therefore, if the States to which it originally belonged were disposed to take it back, there could be no objection derived from this consideration. In the second place, it appeared, from their short experience, that the exercise of exclusive legislation would take up a great deal of time, and produce a great expense to the nation; and it was probable that, in the course of events, the trouble and expense would increase with the increasing number of the inhabitants. Should justice be done to the exercise of this power, it was likely that as much time would be spent in legislating for this District as for the whole United States. It was certain that very considerable time would be consumed. They would likewise be subjected to other expenses than those attendant on legislation. In the next place, the Government would be very diverse from that in the other parts of the Union. He would rather see the Government in the United States uniform. Here the citizens would be governed by laws, in the making of which they have no voice—by laws not made with their own consent, but by the United States for them—by men who have not the interest in the laws made that legislators ought always to possess—by men also not acquainted with the minute and local interests of the place, coming, as they did, from distances of 500 to 1,000 miles. From these considerations, he inferred their incompetency to legislate for this District, whatever their disposition might be. These were the principal reasons that influenced his mind. They might however, perhaps, be easily obviated by the reasons of other gentlemen, which he would be glad to hear.



Mr. HUGER was opposed to the resolutions, first, because he was not inclined hastily to make alterations in the great national compact that held us together. It appeared to him that, though they might not always understand the reasons on which a part of it was founded, yet it was prudent not to change it until experience had clearly proved its inconvenience. It must be obvious that it was easier to perceive its present inconvenience than to foresee the effects that may ensue from a change. The constitution contemplates the exercise by Congress of exclusive legislation over ten miles square. It must impress itself upon the mind of every gentleman that the wise men who framed the constitution deemed it proper. Congress also had thought it proper, as well as two of the most respectable States in the Union—the one by receiving and the other by granting the territory. All these considerations impressed his mind with a disinclination hastily to alter the course that had been pursued.

Mr. DENNIS regretted that he had been called out of the House when this subject was taken up, as, in the remarks which he considered it his duty to make, he could not avail himself of the ideas suggested by other gentlemen, and as he might repeat what had been perhaps already said. He would undertake, however, to show that the proposed resolutions were objectionable in every point of view that could be taken of them. They presented two aspects. Admitting, in the first place, that they could be carried into effect, so far as to restore the people of the territory to the situation in which they were placed before the cession, yet it appeared to him a strong objection that all the advantages of exclusive jurisdiction would be thereby lost. He had always thought that part of the constitution which gave Congress exclusive jurisdiction over a district of ten miles square wise and proper, and that a government whose laws were to pervade the whole United States ought not to be subjected to the whim or caprice of any part of the United States.

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By exclusive legislation, he understood the exclusion to the States of all participation in legislation. He admitted that it was competent to Congress to sanction the acts of Maryland and Virginia; but he believed that no one would contend that Congress could divest themselves of an ultimate control. They might admit the Legislatures of Maryland and Virginia to legislate for the territory, but Congress possessed the power of controlling or modifying their acts. He would wish to know what advantage there could be in giving this legislative agency to those States? If given, no doubt could be entertained of many acts passed by them being disagreeable to the people of the territory, who would apply to Congress to repeal them. The next Congress, too, would have the power of resuming the jurisdiction, or, more properly speaking, the jurisdiction would still remain in Congress. Under such a qualified cession, he presumed the Legislatures of Virginia and Maryland would refuse to act; for, why should they legislate for people not within their limits? The power of legislation might as well be vested in the Legislature of Massachusetts. The truth is, that our jurisdiction would be paramount, and the acts of Maryland and Virginia would go into operation merely by our permission, and Congress might repeal and amend them whenever and howsoever they pleased. We should, therefore, be then relieved from no trouble that we now experience. There would then be as many applications to pass laws as there are now.

In another point of view he was astonished at these propositions, and at the quarter from which they came. The gentleman from Massachusetts (Mr. BACON) has told us that his resolutions are bottomed on the broad basis of the rights of man; but he would ask how this could be, when the resolutions went to transfer twenty thousand men, without their consent, to a Government different from that under which they now live? Gentlemen are going to imitate some of the extraordinary scenes that have lately occurred in Europe, and propose to transfer this District with the same facility that in that quarter of the globe they have transferred an Italian dukedom or a German principality.

Mr. DENNIS thought the situation of Congress in relation to the people of this Territory was not sufficiently understood. He knew that it was always troublesome to legislate for any people: he foresaw these inconveniences when they removed to this place. He had thought then, as he thought now, that some legislative government must be provided for the District. In this opinion he had never varied, but had, from successive events, become more confirmed in its accuracy. But, if gentlemen object to vesting the people with the power of government, he thought he could suggest a plan better than that of retrocession, to wit: to vest the President with the power to revise the laws of Maryland and Virginia, and make a report to the next session of Congress. The laws of Maryland and Virginia were generally agreeable to the people, but they experienced many inconveniences from local and peculiar circumstances.

### **WEDNESDAY, February 9.**

#### ***District of Columbia.***

The House then resolved itself into a Committee of the Whole on the resolutions of Mr. BACON to recede to the States of Maryland and Virginia the District of Columbia.

Mr. BAYARD hoped the committee would not agree to the resolutions. He did not believe that a constitutional power existed enabling the Government of the United States to recede the Territory. The Territory had been acquired by the direction and under the permission of the constitution. The constitution also allows the cession by particular States. When, therefore, gentlemen say Congress has the power to recede, he was at liberty to call upon them to exhibit that part of the constitution that conferred the power. He had looked over the constitution with a vigilant eye, and he could see nothing to this effect. Can it be done without power? Do gentlemen recollect that the Government of the United States is federative, and of course possessed of limited powers; and what is not delegated does not exist; and that there is an express provision

that powers not expressly given shall not be assumed by implication? It was difficult to point out a non-entity. If gentlemen contend for an entity, they should distinguish it. If Congress have the power to recede this Territory, they have also the power to recede the others, the Indiana and Mississippi Territories. It is an extremely different thing to receive a cession and to recede it after it is received. Congress has the power to do the one, but not the other. How can the retrocession be made? Gentlemen say, by law. That law may be repealed. If receded, what would be the situation of the Territory? It could be no affair of contract. For a contract cannot exist without a consideration. Though, on the cession, there was a consideration, in receding there would be none. Would there be a power in Virginia and Maryland, if receded, to prevent a resumption? Such a measure showed but little respect for the people of the Territory. As far as he knew the sentiments of the people, it was not their wish to be receded. They were willing to live under the protection of Congress. The gentleman from Pennsylvania has called them slaves. They may not thank him for the appellation. If they were slaves, there must be some corollary; and if so, we must be their tyrants. But they are not slaves; they are children, over whom it is not our wish to tyrannize, but whom we would foster and nurture. Are we, in the character of Representatives of the United States, to be considered as their tyrants, because they are not immediately represented here? We ought not to decide this question until the people express their desire to return to the States.

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But there is a more serious consideration relative to the people of the Territory. It is proposed to recede the District to Maryland and Virginia. Once take that step, and what obligation was there in Congress to remain here? He felt there was none. The obligation to remain arises, in a great measure, from the cession, and by destroying that, you extinguish the sense of the obligation to stay. This may be the object of gentlemen. A number of the measures lately proposed appeared to have that tendency. One motion had been made to concentrate the public buildings. Violate one stipulation of the Government, or disappoint a reasonable expectation that had been excited by the measures of the Government, and the ruin of hundreds follows. Now, a motion is made to recede. Combine these two operations. Unfix the Capitol, and recede the District, and, believe me, Congress will soon take wings and fly to some other place. It had been truly remarked, on a similar occasion, by those interested, though these things may be sport to you, they are death to us. Not a motion of this kind had been made, or could be made, that did not depreciate the interests of the place, and frustrate the object professed. By such means, our accommodations will be impaired, all enterprise be subdued, and industry languish. He hoped, therefore, that the House, by a decided vote, would reject these resolutions, and put all similar ones to sleep.

Mr. GREGG said he had expected that this question would have been decided by a silent vote. He, for his part, had no intention of having troubled the committee with any observations of his on the subject, but as other gentlemen had seen proper to enter into a discussion of it, he would beg the indulgence of the committee while he assigned, as concisely as possible, the reasons that would influence his vote. Having been a member of the Legislature at the time the act was passed for assuming the jurisdiction of the Territory, he foresaw pretty clearly most of the difficulties in which we are now involved by that act, and therefore had given it his opposition in every stage of its passage. A majority of the Legislature, however, at that time, entertained a different opinion, and made the assumption. From that moment he had considered a contract to be fully complete and ratified between the States of Maryland, Virginia, the people of the Territory of Columbia, and the Government of the United States. That contract he considered as of permanent obligation, not to be done away, but by the unanimous consent of all the parties.

Mr. SMILIE could not agree either with the gentleman from Delaware or with his colleague (Mr. GREGG) on the constitutional question. We had a power to accept the cession, or not to accept it; from which necessarily resulted the power of recession. Instead of arguing as the gentleman from Delaware, he would call on him to point out in the constitution the prohibition. His colleague talked of a moral obligation to keep the Territory. This might exist, if it were proposed to force this Territory on the States without their consent. The gentleman seems to have taken offence at the expression which had fallen from him of slaves. For his part, he had never been accustomed to courtly language, but to the expression of his ideas plainly and openly as he conceived them. He certainly had not used the expression with any intention to treat the people of this Territory with disrespect; but to express his regret at the degraded situation of those who were formerly in possession of the full rights of citizenship. The gentleman seems also offended at the epithet of tyrants applied to us.

Mr. S. would ask the gentleman from Delaware, if ever he knew a government possessed of unlimited power, who had not abused it. This was the condition of this Government, which he hoped, however, if continued, would be moderate. He had expected that gentlemen opposed to the retrocession would have shown the benefit to be derived to the United States from retaining the jurisdiction. If there were none, it was useless and dangerous, inasmuch as it could only be done at the expense of the rights of the people. He was surprised yesterday at the remarks of the gentleman from Maryland, (Mr. DENNIS,) that this measure would deprive twenty thousand people of their rights. How could this be, when they had no right to be deprived of? You may give them a charter. But of what avail will this be, when Congress may take it away at any moment? They would continue for ever to be ultimately governed by a body over whom they had no control. Mr. S. concluded by again observing that he had always thought the assumption wrong; but that he had no idea of connecting that consideration with the removal of the Government. It could have no influence on his mind. He would go farther, and say that he had no idea of removing; nor did he believe they could remove.

Mr. RANDOLPH said that, whatever reasons might be advanced on the ground of expediency against

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the adoption of the resolution, he wished to say a few words on the constitutional objections which had been offered to them. The gentleman from Delaware (Mr. BAYARD) told us, on a very late occasion, that the power to create involved the power to destroy; and although I may not be willing to adopt this maxim in all the latitude in which it was urged by that gentleman, I have no hesitation in averring my belief that Congress possess the right, with the assent of these States, respectively, to cede the several portions of this territory to Maryland and Virginia. Nor, in my opinion, does this doctrine militate against that construction of the constitution, which regards that instrument in the light of a limited grant of power. In this construction I heartily concur with the gentleman from Delaware, or rather, if he will permit me to say so, I am glad to find he agrees with me, as I have retained my opinion, whilst he seems to have changed his. I readily admit that Congress possesses no power but that which is devolved on them by the constitution, explicitly, or which is evidently included in, or deducible from its plain provisions. The constitution nowhere gives Congress the express power of repealing laws; but the repeal of laws is essentially connected with the power of passing them, as, in this case, the right to recede is involved in the right to accept the cession. The parties to this compact are the United States, of the one part, and the States of Maryland and Virginia, of the other. We speak the voice of the United States, and, among others, of Maryland and Virginia, in their confederate capacity. The Legislatures of those States answer for them in their individual capacity. If all these parties are agreed to revoke their act, I wish to know who is to dissent to it, or what obstacle can prevent its being rescinded?

Mr. R. said, that he was of the number of those who voted against assuming the jurisdiction of this territory. He did it from a predilection for those principles in which the American Revolution originated; from the firm belief that men ought not to be bound by laws in whose formation they had no influence. It was the violation of that principle, and not the extent to which it was carried, which laid the foundation of our independence. For, let it be remembered that the demand of Great Britain went only to a peppercorn; but that we disdained the admission of so odious a doctrine, and commenced a determined and successful resistance. But it is denied that this territory is in a state of slavery, because, says the gentleman, it implies that we are tyrants. The term slavery, sir, excites in the mind of man an odious idea. There are, however, various species of this wretched condition. Domestic slavery, of all others the most oppressive; and political slavery, which has been well defined to be that state in which any community is divested of the power of self-government, and regulated by laws to which its assent is not required, and may not be given. Nor have I ever before understood that slavery, particularly of the last description, necessarily implied tyranny, although it too frequently is productive of it. But, so far from being slaves, the people within this territory are, it seems, our children, who are to experience every indulgence at our hands. Sir, the form of government, such as has been described, however mild and beneficent it may be in its administration, places those subjected to it in a state of political slavery, and they are as completely divested of self-control as the infant who is dandled on the knee of its parent. As to the existence, then, of this species of slavery, it mattered not whether the people within the limits of this District were regarded as the favorite son, and feasted on the fatted calf, or were exposed to the cruel rigor of a step-mother.

An idea had been held out from a very respectable quarter that this District might, in time, become a State. As to Congress, what difference will they find between being under the jurisdiction of the State of Columbia, or the State of Maryland. But, if this objection were removed, it is impossible that this territory can become a State. The other States can never be brought to consent that two Senators and, at least, three electors of President, shall be chosen out of this small spot, and by a handful of men.

The constitution seems to have intended, by its provision on this subject, to guard the General Government against the undue influence of any particular States wherein it might sit. An insurrection in Philadelphia is mentioned by some gentleman as having given rise to this clause in the constitution. The constitution, no doubt, had a wise end in view, but it has failed in the means of attaining it. No man has a higher respect than myself for the talents of the framers of that instrument. But let it be remembered, that they were making a great experiment, and to have failed in but a single object, is the highest proof of their wisdom. The physical force of this small District would prove but a poor defence against the aggression of large and powerful States. Happily, our security is more amply provided for; it results from the command which has been given us over the sword and the purse of the Union. Our protection is not in a mathematical line—which would oppose but a feeble resistance to an invading foe. But let gentlemen ask themselves, why the inhabitants of this District should be less formidable if disposed to insurrection because under our own jurisdiction? Look at Paris! was the insurrection of the fourteenth of July, which humbled into the dust the ancient monarchy of France, the effect of a want of jurisdiction; of a want of power in the Government over the lives and fortunes of the people? Did the city afford the Government a defence? No, it was in insurrection. Did the military send its aid? On the contrary, it joined the insurgents. What was the fact at Philadelphia? That Congress was insulted by its own troops. Would the civil jurisdiction of the town have repelled the bayonet? No, it was not in parchment to afford this defence. It has left us an awful lesson against standing armies; and if we shall ever be so infatuated as to multiply armies about us, we may rely in vain on the lines of circumvallation which the limits of our exclusive jurisdiction form. The constitution, therefore, has failed in its endeavor to give to Congress any other security than that which public opinion and the command of the national resources afford.

But, whilst I have no doubt on the subject of our constitutional right, I am opposed to the resolution on the ground of expediency. It appears to have disseminated a great alarm among the people of our immediate neighborhood. At a proper time, when great unanimity can be obtained,

it may be carried into effect. If now passed, it is irrevocable; and I have no indisposition to give the question the most mature deliberation, and to give it a fair operation on the public mind. I could wish, indeed, to see the people within this District restored to their rights. Men in such a situation are, as it had been wisely and eloquently said, fit instruments to enslave their fellow-men. This species of Government is an experiment how far freemen can be reconciled to live without rights; an experiment dangerous to the liberties of these States. But, inasmuch as it has been already made, inasmuch as I was not accessory to it, and as, at some future time, its deleterious effects may be arrested, I am disposed to vote against the resolutions. I view them as a fatal present to this House, although I respect the motives in which I believe them to have originated; as tending to disunite those who ought ever to act in concert; and I have no hesitation on a question of expediency to declare my disposition to concede something to the wishes and fears of those around me. In their present shape, at least, I shall therefore vote against the resolutions.

Mr. EUSTIS was opposed to the resolutions, for the reasons which had been stated, and for other reasons not mentioned, though they might have occurred to the minds of gentlemen. He thought it right to express a difference of opinion with the gentleman from Virginia, (Mr. RANDOLPH,) on an important question, the exclusive jurisdiction of Congress to the ten miles square. He was not prepared to pronounce the provision of the constitution on this subject deficient or unwise. It rather appeared to him to be founded in the nature of the Government. A Government on parchment, and without force, was no Government at all. It had been stated this provision grew out of a transaction at Philadelphia, and asked what dependence was to be placed on a military force when that force was itself the aggressor? But that transaction suggested a different result. Had the militia been well equipped and ready for service, and under the immediate control of Congress, would the military force have been suffered to overawe them? This very case furnished an argument for investing Congress with the complete command of the militia force of the territory, to screen them from insult, and to protect them from the application of force that might destroy deliberation. They had already taken a course calculated to prove the soundness of this mode of protection. Their laws had recognized the militia of the territory; and some measures had been taken to organize them. The militia was the physical force Congress must rely on. Suppose that militia were under the command of Maryland, and Congress was about to pass a law obnoxious to that State. Suppose the militia of Maryland to be mutinous, and to surround these walls. Must you resort to Maryland for protection, and wait on her measures? No; the situation of the territory and your immediate power over the militia must furnish you with the means of protection. He therefore thought it one of the best provisions of the constitution, to submit the physical force near the Government to its direction.

Mr. SOUTHARD rose only to make one observation, which had been touched on but lightly in the course of the debate. It appeared to him that when Congress assumed the exclusive jurisdiction of the ten miles square, they had, in the first instance, entered into a contract with the Legislatures of Virginia and Maryland. He had no doubt that, if the contract had ended here, they might, with their consent, make a retrocession. The second step, however, taken, was a contract between the agents of Government and the proprietors, in order to obtain the soil. This contract appeared to him to be solemn and binding. In entering into the contract, the proprietors gave the General Government sites for the public buildings, and half the residue of the land within the city plot. He conceived that this was a contract founded on express stipulations that Congress should exercise exclusive jurisdiction. The proprietors had no idea, at the time they made the contract, that their property would be retroceded and the Government had since received more than one million's worth of real property which they now enjoyed. He would ask, whether a retrocession, under such circumstances, would not have a retrospective effect, and impair those obligations which the United States were bound to observe? For this reason, he thought a retrocession improper, as it would be a violation of contract with the people of the territory. It appeared to him that, while they were satisfied, the General Government ought to be satisfied.

Mr. VARNUM doubted the reality of the observation of the gentleman from New Jersey. He suspected there was no such contract in existence. It was not the interest of the Government of the United States to do any thing that would injure this District. He therefore supposed that every gentleman who voted on this occasion, would act for the interest of his country. If he thought it possible for Congress to legislate for the territory, he should have no objection to retaining the jurisdiction. But, when he considered that Congress were appointed to legislate on great objects, and not on minute local concerns, he did not think them competent to legislate for the persons situated in the Territory of Columbia. He did not know whether, if the jurisdiction was retained, it would not be proper to indulge the citizens with a territorial legislature. But to this the people themselves object. Virginia objects to a union with Maryland. There were, manifestly, hostile interests which could not easily be united. And if there shall be a territorial legislature, still Congress has a right over their acts. Whether this was the fit time to retrocede the territory he did not know; but he believed the time would come when the citizens of the territory will be in favor of it.

Mr. SMILIE stated the circumstances of the case at Philadelphia, which had been so often alluded to by gentlemen. At the close of the late war there had been a mutiny among the troops, who had surrounded Congress. Not a drop of blood had, however, been spilt. This was the mighty incident of which so liberal a use had been made. He would ask whether, in countries over which the Government had complete jurisdiction, worse things had not happened? He would ask, whether this menace of Congress were to be compared with the mob of Lord George Gordon in a country over which the Government had an entire jurisdiction.

The question was then taken on the first resolution, for receding to Virginia the territory originally attached to that State, and lost—yeas 22.

When the question was taken on the second resolution, and lost, without a division.

The committee rose, and reported their disagreement to the resolutions.

The House immediately took up their report.

Mr. NICHOLSON called for the yeas and nays.

Mr. RANDOLPH said, as he believed the House incompetent to legislate for the people of Columbia; as he believed the interests of the several parts of the territory were as hostile as any in the Union, as it was manifest there was an Alexandria, a Georgetown, and a city interest; and even, within the city, a Capitol-hill interest, and a President's-house interest—which were irreconcilable; he should vote for the amendment of his colleague, (Mr. DAWSON.) To attempt to legislate for the District was, in effect, to constitute the chairman of the committee, or, at any rate, the committee itself on the affairs of the territory, the Solon or Lycurgus of the place. It was well known that the indolence of the other members, or their indifference, inseparable from the situation in which they were placed, would prevent Congress from legislating with a full understanding of the objects before them. He, therefore, thought it expedient to retrocede all the territory, excepting the City of Washington. This disposition of the territory would leave entirely untouched the question which arose from the interest of individuals who had made purchases of property under the faith of Congress retaining the jurisdiction. It was probable that, in such event, a corporation might be established in the city that would answer the ends of Government, without two-thirds of the time of the National Legislature being consumed.

The question was then taken by yeas and nays, on concurring with the Committee of the Whole, in their disagreement to the first resolution, and carried—yeas 66, nays 26, as follows:

YEAS.—Theodorus Bailey, James A. Bayard, Thomas Boude, Richard Brent, Robert Brown, John Campbell, John Clopton, John Condit, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas T. Davis, William Dickson, Peter Early, William Eustis, Abiel Foster, Calvin Goddard, Edwin Gray, Andrew Gregg, Roger Griswold, William Barry Grove, John A. Hanna, Daniel Heister, William Helms, Joseph Hemphill, Archibald Henderson, William H. Hill, David Holmes, Benjamin Huger, Samuel Hunt, George Jackson, William Jones, Ebenezer Mattoon, David Meriwether, Samuel L. Mitchill, Thomas Moore, Lewis R. Morris, Thomas Morris, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Elias Perkins, Thomas Plater, Nathan Read, John Rutledge, William Shepard, Israel Smith, John Cotton Smith, John Smith, (of Virginia,) Samuel Smith, Henry Southard, John Stanley, John Stewart, John Taliaferro, jr., Samuel Tenney, Samuel Thatcher, Thomas Tillinghast, Philip R. Thompson, Abram Trigg, John Trigg, George B. Upham, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, Richard Winn, and Thomas Wynns.

NAYS.—Willis Alston, John Archer, John Bacon, Phanael Bishop, William Butler, Samuel J. Cabell, Thomas Claiborne, Matthew Clay, Richard Cutts, John Dawson, Lucas Elmendorph, Ebenezer Elmer, John Fowler, William Hoge, James Holland, Michael Leib, James Mott, John Randolph, jr., John Smilie, John Smith, (of New York,) Josiah Smith, Richard Stanford, David Thomas, Joseph B. Varnum, Isaac Van Horne, and Robert Williams.

The second and last resolution to which the Committee of the Whole reported their disagreement, being twice read, in the words following, to wit:

*Resolved*, That it is expedient for Congress to recede to the State of Maryland the jurisdiction of that part of the Territory of Columbia, which was ceded to the United States by the said State of Maryland, by an act passed the nineteenth day of December, in the year one thousand seven hundred and ninety-one, entitled "An act concerning the Territory of Columbia and the City of Washington;" provided the said State of Maryland shall consent and agree thereto:

The question was taken that the House do concur with the Committee of the Whole in their disagreement to the same, and resolved in the affirmative.<sup>[77]</sup>

## THURSDAY, February 10.

### *Ohio School Fund.*

The House resolved itself into a Committee of the Whole on the report of the committee of the second instant, to whom were referred, on the twenty-third of December last, a letter from Edward Tiffin, President of the Convention of Ohio, and a letter from Thomas Worthington, special agent of the said State, enclosing a copy of the constitution thereof, together with sundry propositions in addition to, and in modification of, those contained in an act passed at the last session of Congress; and after some time spent therein, the committee rose and reported to the House their agreement to the resolutions contained therein, with two amendments, which being severally read, the first amendment was, on the question put thereupon, agreed to, and the other disagreed to by the House.

The said resolutions, as amended, were again severally read at the Clerk's table, and agreed to

by the House, as follows:

1. *Resolved*, That a donation, equal to one thirty-sixth part of the amount of the lands in the United States' Military Tract, within the State of Ohio, be made for the support of schools within that tract.
2. *Resolved*, That a donation equal to one thirty-sixth part of the county of Trumbull, be made, out of the lands within the United States' Military Tract, for the support of schools within the said county of Trumbull.
3. *Resolved*, That a donation equal to one thirty-sixth part of the Virginia reservation, so far as the unlocated lands, within that reservation, (after the warrants issued by that State shall have been first satisfied,) will supply the same, be made for the support of schools in the district contained between the Scioto and Little Miami Rivers.
4. *Resolved*, That a like provision, for the use of schools, be made, out of any lands which may hereafter be acquired from the Indian tribes.
5. *Resolved*, That the lands which now are, or hereafter may be, appropriated to the use of schools within the State of Ohio, be vested in the Legislature thereof, in trust for that object.
6. *Resolved*, That not less than three-fifths of the sum offered to be appropriated by Congress for the opening of roads, from the Western to the Atlantic waters, shall be appropriated under the direction of the State of Ohio, for the laying out of roads within that State.
7. *Resolved*, That, in lieu of the township proposed to be granted for the use of an academy, by the act passed the fifth day of May one thousand seven hundred and ninety-two, there be granted to the State of Ohio, for the purposes described in that act, one other entire township, within the district of Cincinnati; provided that the State of Ohio shall relinquish to the United States, all their claims, under the act aforesaid, against the said John C. Symmes.
8. *Resolved*, That these propositions shall depend on the compliance, by the State of Ohio, with the provisions of the third proposition, and second section of the aforesaid act, entitled "An act to enable the people of the eastern division of the territory north-west of the river Ohio to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," passed the thirtieth day of April, one thousand eight hundred and two.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. RANDOLPH, Mr. ELMENDORPH, Mr. GODDARD, Mr. HENDERSON, and Mr. ARCHER, do prepare and bring in the same.

**THURSDAY, February 17.**

***Emancipated Slaves from French West Indies.***

An engrossed bill to prevent the importation of certain persons into certain States, where, by the laws thereof, their admission is prohibited, was read the third time.

And, on the question that the same do pass, it was resolved in the affirmative—yeas 48, nays 15, as follows:

YEAS.—Willis Alston, John Bacon, Theodorus Bailey, James A. Bayard, Phaniel Bishop, Thomas Boude, William Butler, Samuel J. Cabell, John Campbell, Matthew Clay, John Clopton, John Dawson, Peter Early, Lucas Elmendorph, Ebenezer Elmer, Calvin Goddard, Edwin Gray, Daniel Heister, Joseph Heister, William Helms, Archibald Henderson, William H. Hill, William Hoge, James Holland, George Jackson, Michael Leib, David Meriwether, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Thomas Plater, John Rutledge, William Shepard, John Smilie, Samuel Smith, Richard Stanford, John Stewart, John Taliaferro, jr., Samuel Tenney, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, Robert Williams, Henry Woods, and Thomas Wynns.

NAYS.—Robert Brown, John Condit, Richard Cutts, John Davenport, Abiel Foster, John A. Hanna, Seth Hastings, Samuel L. Mitchill, James Mott, Israel Smith, Josiah Smith, Henry Southard, Joseph Stanton, David Thomas, and Peleg Wadsworth.

*Resolved*, That the title be, "An act to prevent the importation of certain persons into certain States, where, by the laws thereof, their admission is prohibited;" and that the Clerk of this House do carry the said bill to the Senate, and desire their concurrence.

**TUESDAY, February 22.**

***Military Land Warrants.***

**GENERAL LAFAYETTE.**

The House took up the bill respecting military land warrants.

Mr. DAVIS hoped it would not be adopted without inquiring whether the land proposed to be given to General Lafayette was the same as was given to other Major Generals. It was true he had rendered services to the United States, for which they had made him an allowance. There were other claims, in his opinion of greater force, made day after day, without being attended to. If this provision were annexed to the bill he should vote against its passage; though, otherwise, he would be glad to vote for it. If General Lafayette was entitled to this land, he wished to see the business regularly conducted. We are now making provision for persons who have legal claims. It is right, therefore, to separate these subjects. Let us attend to one first, and afterwards consider the other.

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Mr. DAWSON.—When, on yesterday, I had the honor to submit this amendment, I indulged the pleasing hope that it would have received not only the vote of this House, but would have met with the patronage of all—of all the friends of justice, and of those who remember past services; and that it would have been adopted without delay and without debate.

In this I have been wofully disappointed. My fond anticipation was immediately damped by a gentleman from New York, on whose friendship I did count, and do now expect; and the amendment, instead of finding sympathizing advocates, has met with an unexpected opposition; instead of finding friends proud to reward past services, it has met with enemies, seeking for reasons to withhold justice.

Mr. Chairman, the search has been in vain; the grateful, the patriot mind will remember those services, while the reflection on a wish to withhold justice will be left as consolation to those who have made the search.

Sir, it was my wish, and it is my determination to support this amendment solely on the grounds of services rendered to us. Whatever may have been the conduct and the situation of General Lafayette since our Revolution, humanity may lament; but, sir, it belongs to us to pay this tribute to justice, if not to gratitude.

Sir, on yesterday, I stated what was known to every gentleman of this House, that this gentleman at an early period of life, animated by the love of liberty, left the pleasures of an enticing Court, encountered the danger of winds and waves, and entered into the service of a country known to him only by name, and endeared to him only by its devotion to that flame which he felt himself. In this service he continued until the end of our war, submitting to all the hardships and fatigues of the field; leading our armies to victory, and exposing himself to every danger; and this without any compensation, and at the sacrifice of the greater part of his private fortune.

I stated more—that that fortune is now much reduced; and this is what I do know. Yes, sir, I have spent two days with this adopted child of America on his little farm. I saw him surrounded by an amiable family, but not with wealth. I heard him pouring forth his best wishes for the prosperity and happiness of this country; and I witnessed his constant exertions to promote its interests. It may not be improper here to remember what I do know. Some short time before I went to France, the First Consul applied to Mr. Lafayette to come to this country as Minister. He replied, "I am by birth a French citizen, by adoption a citizen of the United States. I have served in that country, and am so attached to its interest that I doubt, if a case of difficulty should arise, whether I should do justice to my own; if I did, I am sure I should be suspected, and therefore I will not place myself in that delicate situation."

And now, sir, what is it that it is proposed to do for this gentleman; for him who rendered you services without emolument, and risked his life without hesitation; to this citizen of the United States; and not a foreigner, as the gentleman from Kentucky has been pleased to call him? It is to give to him what we give to others; and what he never would have received had it not been for the reverse of his fortunes. And shall we hesitate? I trust not.

Sir, this is not only a question of justice, but it is of feeling; every soldier, every officer must feel for a fellow-soldier and a fellow-officer, and every citizen for a fellow-citizen; and such is Mr. Lafayette.

Whatever may be the fate of that amendment, if it shall be adopted I shall feel proud for my country. If it shall be negatived, I shall have the pleasing reflection of having discharged a duty to my country and to my own feelings.

Mr. T. MORRIS said that the opposition he had made was more to the manner than to the matter of the motion. He thought it improper to decide upon it at so late an hour, and when there was scarcely a quorum of members within the walls. I have, said Mr. M., no objection to the grant. On the contrary I think it ought to be made in consideration of the circumstances of General Lafayette. I should indeed have wished that it had been the subject of a distinct bill. The value of gifts of this nature depends as much on the manner in which they are made, as on the gifts themselves; and I think the donation would, in this case, have been deemed more honorable, if a special bill had been passed, instead of inserting a clause in another bill. If there were time to bring in a distinct bill I should now vote against the amendment; but as I am unwilling to hazard the object altogether, I shall vote for it: expressing my regret, at the same time, that the gentleman who has viewed the distressed situation of General Lafayette had not sooner brought the business forward.

A debate of short duration ensued, between MESSRS. S. SMITH, SHEPARD, DAWSON, and BACON, in favor of the amendment, and Mr. DAVIS against it, when it was carried without a division.

On engrossing the bill for a third reading, MESSRS. SOUTHARD, and SHEPARD spoke in favor of, and



Mr. VARNUM against it—carried, and ordered to a third reading to-morrow.

## SATURDAY, February 26.

### *French Spoliations.*

Mr. BAYARD moved that the House do now resolve itself into a Committee of the whole House on a motion of the thirty-first ultimo, "for indemnifying the citizens of the United States, who, in carrying on a lawful trade to foreign parts, have suffered losses by the seizure of their property, made by unauthorized French cruisers, or by any French cruiser, without sufficient cause," to which Committee of the whole House was also referred, on the second instant, the report of a select committee, made the twenty-second of April last, on "the memorials and petitions of sundry citizens of the United States, and resident merchants therein, praying relief, in the case of depredations committed on their vessels and cargoes, while in pursuit of lawful commerce, by the cruisers of the French Republic, during the late European war:"

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It passed in the negative—yeas 21, nays 48, as follows:

YEAS.—John Bacon, James A. Bayard, John Campbell, Samuel W. Dana, William Eustis, Calvin Goddard, Roger Griswold, Seth Hastings, William H. Hill, Benjamin Huger, Samuel Hunt, Samuel L. Mitchill, Thomas Morris, Thomas Plater, Nathan Read, John Cotton Smith, Samuel Tenney, Samuel Thatcher, George B. Upham, Peleg Wadsworth, and Lemuel Williams.

NAYS.—Willis Alston, John Archer, Theodorus Bailey, Phaniel Bishop, Richard Brent, Robert Brown, William Butler, Samuel J. Cabell, Thomas Claiborne, John Clopton, John Condit, William Dickson, Peter Early, Lucas Elmendorph, Ebenezer Elmer, Andrew Gregg, Daniel Heister, Joseph Heister, William Helms, William Hoge, James Holland, George Jackson, Michael Leib, David Meriwether, Thomas Moore, James Mott, Anthony New, Thomas Newton, jr., John Randolph, jr., John Smilie, Israel Smith, John Smith, (of New York,) John Smith, (of Virginia,) Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, John Taliaferro, jr., David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Isaac Van Horne, Robert Williams, Robert Williams, Richard Winn, and Thomas Wynns.

## THURSDAY, March 3.

### *Thanks to the Speaker.*

On a motion made and seconded,

"That the thanks of this House be presented to NATHANIEL MACON, the Speaker, in testimony of their approbation for his conduct in discharging the arduous and important duties assigned him, while in the chair:"

It was unanimously resolved in the affirmative, by yeas and nays, every member present voting in the affirmative.

Whereupon, Mr. SPEAKER made his acknowledgments to the House, in manner following:

"GENTLEMEN: Accept my sincere thanks for the vote which you have been pleased to pass, expressive of your approbation of my conduct in the chair; they are also due to each of you, for the liberal support which I have uniformly received.

"Permit me to wish you a safe return home and happy meeting with your friends."

A message from the Senate informed the House that the Senate having completed the Legislative business before them, are now ready to adjourn.

Whereupon, Mr. SPEAKER adjourned the House, *sine die*.

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END OF VOL. II.

FOOTNOTES:

- [1] A graceful compliment from Mr. Jefferson to Mr. Adams whose competitor he had been in the election, for the President and Vice President were not then voted for separately but the person having the highest number of votes became President, and the next highest the Vice President; and in this election there was only a difference of three votes between the two highest on the list.
- [2] The sensibility which was manifested when General Washington entered, did not surpass the cheerfulness which overspread his own countenance, nor the heartfelt pleasure with which he saw another invested with the power and authorities that had so long been exercised by himself.—*Marshall*.
- [3] In this early day, the parliamentary rule was enforced against any reference in one House to what was done in the other.
- [4] Valued by a speaker in this debate at £5000 sterling, and afterwards given to the Washington College, Lexington, Va.
- [5] Afterwards General and President. This was his first appearance in the national councils—and characteristically—defending with his voice those Western settlers whose defence, with the sword, was afterwards the foundation of his national fame and political elevation.
- [6] This is the true ground on which the United States becomes liable to a State for its expenses in suppressing or repulsing Indian hostilities. It turns upon the idea of an actual invasion, or such imminent danger of it as not to admit of delay: then the contingency happens in which the State may engage in war, and all the acts of Congress, and the Government orders give way before a constitutional right. Tennessee, like other new countries in the United States, was settled without law, and against law. Its early settlers not only had no protection from the Federal Government, but were under legal disabilities to pursue the enemy. This arose from the policy of the Government to preserve peace on the frontiers by restraining the advance of settlements, and curbing the disposition of the people to war. The history of all the new settlements, from the Atlantic to the Pacific, is the same: people go without law, and against law; and when they can neither be stopped by the Government, nor driven back by the Indians, then the Government gives them protection.
- [7] The committee reported in favor of paying the brigade of General Sevier, (300 infantry and two troops of horse,) amounting to the sum of \$22,816 and 25 cents—a very small

sum for a remote expedition into the country of a formidable Indian tribe, and so efficiently conducted as to secure tranquillity to the frontier. It deserves to be remembered for its promptitude, efficiency and cheapness.

- [8] The solution of the enigma was, that those who voted against taxing slaves were opposed to any direct tax whatever, and the members from the slave States who supported the tax, did so because the taxation of lands and slaves went together in the slave States—the people were used to the association—and to omit slaves in the direct tax would be unjust and unpopular, as sparing the rich and making the tax fall heavier upon persons of less property.
- [9] Yeas and nays not taken.
- [10] The great naval powers of Europe show themselves sensible of this, by proposing to the United States to abolish privateering.
- [11] The whole expense of procuring peace from Algiers, and forbearance to prey upon our citizens and commerce, and to redeem the captives, was then about one million of dollars; and the alternative was between paying that amount and carrying on war against her. War preparations had begun, and six frigates had been authorized to be built. A war with Algiers, then a formidable power, (and of course with the rest of the Barbary States,) was a very serious undertaking to the United States at that time—the cost great and certain—the issue uncertain. The greatest powers of Europe paid tribute to these barbaric pirates: it was no disgrace to the infant United States to do the same: and the redemption of the captives was a further inducement, founded in humanity: so that the price of peace became a question of economy.
- [12] She was compensated accordingly.
- [13] The resolution offered by Mr. Harper contemplated an official interposition in behalf of Lafayette—a grave proceeding, which President Washington had well considered beforehand, and maturely decided against. But unofficially he had been exerting himself to procure the release, or to mitigate the fate of the illustrious captive. A confidential person had been sent to Berlin to solicit his discharge, his first captivity being in Prussia; but before the arrival of the messenger the well-guarded prisoner had been turned over to the Emperor of Germany. Mr. Thomas Pinckney, the American Minister in London, had been instructed to make known the wishes of the President to the Austrian Minister at that place, and the British Ministry had been solicited to take an interest in the application: but all in vain. As a last attempt, and at the moment of ceasing to be President, he addressed a private letter to the Emperor of Austria, couched in noble and feeling terms, in which he solicited that Lafayette might be allowed to come to the United States. The letter said: "I forbear to enlarge upon this delicate subject. Permit me only to submit to your majesty's consideration, whether his long imprisonment, and the confiscation of his estate, and the indigence and dispersion of his family, and the painful anxieties incident to all these circumstances, do not form an assemblage of sufferings which recommend him to the mediation of humanity? Allow me, sir, on this occasion to be its organ; and to entreat that he may be permitted to come to this country on such conditions, and under such restrictions as your majesty may deem it expedient to prescribe." This touching appeal remained without effect; and the romantic effort of Dr. Bollman having failed to save Lafayette, after snatching him from the dungeon of Olmutz, it remained for the glittering sword of the conqueror of Italy to command what the noble letter of Washington failed to obtain. After the Treaty of *Campo Formio*, an aid-de-camp of the then young General Buonaparte proceeded to Vienna—asked the release of Lafayette—and obtained it. The Emperor, Francis the Second, might have appeared more gracefully in the transaction, if he had yielded the release to the letter of Washington.
- [14] The close of the Fourth Congress terminates the presidency of General Washington, and presents, a proper point for a retrospective view of the working of the Government for the first eight years of its existence. Such a view is full of instruction, and deserves to be taken; and first of the finances. Moderate expenses, and moderate taxes were the characteristics of this branch of the service. The support of the Government, called the Civil List, and comprehending every object of civil expenditure, was, for the year 1796, (the last of Washington's administration,) \$530,392, and the duties on imports about five millions of dollars—or nearly ten times as much as the support of the Government required—leaving nearly nine-tenths to go to the public debt, the preservation of peace with the Indian tribes, defence of the frontiers, protection of commerce in the Mediterranean; and other extraordinary objects. This amount was produced by moderate duties—the *ad valorem*s, 10, 12-1/2, 15 and 20 per centum—and mainly produced by the two first rates, the two latter chiefly applying to objects of luxury not used by the general mass. Thus: The amount of imports subject to the 10 and the 12-1/2 rates was \$28,267,000, while those subject to 15 were \$7,850,000; and those subject to 20 per centum only the third of one million. The average of the whole was about 13 per centum. The specific duties were on the same moderate scale; and the cost of collecting the whole was 3.73 per cent. The interest on the public debt was three millions and a quarter; the Military Department, \$1,300,000; Naval Department, \$440,000; tribute to the Barbary powers, veiled under the name of foreign intercourse expense, was \$300,000; while the regular diplomatic intercourse was only about \$40,000. The whole expenditure of the Government was about 5-1/2 millions: its whole revenue something more—the excise on distilled spirits producing some \$400,000. Thus, order and economy were established in the finances. Abroad peace had been maintained. The proclamation of neutrality, unanimously agreed upon in the Cabinet, saved the United States from the calamity of being involved in the wars of the French Revolution. The commercial treaty with Great Britain stopped the depredations which the British had commenced upon American vessels carrying provisions to France, and obtained indemnity for depredations already committed. With Spain the serious question of the free navigation of the Mississippi was settled; and, in addition to the right of navigation, a place of



deposit for American produce and merchandise was obtained at New Orleans—the right to be absolute for three years, and afterwards until an equivalent place should be provided. (It was the subsequent violation of this right of deposit which led to the acquisition of all Louisiana.) Safety to the persons and property of American citizens in the Mediterranean Sea had been obtained, according to the means usual at that time, and upon terms to be endured until strong enough to do better. The formidable Indian war in the North-west, and the troublesome hostilities in the South-west, had been terminated, and peace given to the young communities on the Kentucky and Cumberland Rivers which, commencing without authority, were laying the foundations of future great States. A domestic insurrection (that of Western Pennsylvania) had been quelled, and happily without bloodshed—the exhibition of a large force, with Washington at its head, being sufficient to forbid resistance, and a wise humanity sparing all punishment. The new Government was solidly established, and amidst difficulties which might have been insuperable under any other President. Public credit, which had sunk so low under the Confederation, had risen to a high standard under the new Government; and a general commercial and agricultural prosperity pervaded the land.

[15] This was an extra session, called in the early months of Mr. Adams' administration, for the causes stated in his Message to the two Houses.

[16] The following is the speech referred to, Barras being the President of the Directory who addressed it to Mr. Monroe:

"Mr. Minister Plenipotentiary of the United States of America: By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

"France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants; moreover, the French Republic hopes that the successors of Columbus, Ramhiph, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, sir, that, like them, we adore liberty; that they will always have our esteem; and that they will find in the French people republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected. As to you, Mr. Minister Plenipotentiary, you have combated for principles; you have known the true interests of your country: depart with our regret. In you we give up the representative to America, and retain the remembrance of the citizen whose personal qualities did honor to that title."

[17] This is a view of those depredations which has been lost sight of. Their injuries are now considered as falling exclusively upon the merchants: it was then agreed that they fell upon the community, the merchant indemnifying himself by insurances and increased profits.

[18] And is still so carried on.

[19] Taxed in Great Britain, with the privilege of commutation for a gross sum.

[20] This sum which amounted to one third of the amount of the notes and disposits, was a general rule for regulating the quantity of cash kept to answer their current demands.

[21] This taxation of bank notes presents the ready mode of regulating the paper currency of the States, and suppressing the mischief of small notes which are a constant source of depredation upon the laboring part of the community, a constant source of crime in the making and passing counterfeit paper, and the constant expeller of the constitutional currency. These small notes were hardly known at the time of this tax, which was so readily imposed, and therefore were taxed lightest: now they are a general circulation, and the most profitable part of a bank's issues; and, therefore, should be taxed highest, both on the principle of being most profitable to the banks and most injurious to the community.

[22] This equilibrium was soon destroyed. The merchants soon got rid of the stamp tax; but the farmers still bear a salt tax.

[23] This extra session having been called on account of expected hostilities with the French Republic, the labors of Congress were consequently limited to the two objects of defence and revenue—preparation for defence, and providing the additional revenue which the defence required. Both objects were accomplished. The three frigates—Constitution, Constellation and United States, which afterwards earned themselves a place in history—were finished and manned. A detachment of 80,000 militia was authorized. A stamp duty was imposed—a loan authorized—and the salt tax increased: the latter as a temporary measure, and with an express clause against continuance, without which it could not have passed, and in contravention of which it was continued. Defence was the great object of the session: invasion the danger: and its repulse by sea and land the remedy. Preparation against invasion was, at that time, a proper policy: the progress of science, and of the arts of peace, has superseded such policy in our day. The electric telegraph, and the steam car, have opened a new era in defensive war. Accumulated masses of volunteers, summoned by electricity and transported by steam, rushed upon the invaded point and giving incessant attacks with fresh arrivals, would exterminate any invading force; and give the cheap, effective and extemporaneous defence which the exigency required.

[24] An illustrious mission, nationally composed of the most eminent citizens, three in number, and taken from different parts of the Union, and from both political parties: Charles Cotesworth Pinckney, from South Carolina; John Marshall, from Virginia; Elbridge Gerry, from Massachusetts—the two first federal; Mr. Gerry, republican.

[25] Mr. Gallatin is not accurately reported. The exception extended to all the officers of the Federal Government, and for as long a time as their duties required them to remain in

the States, and to all others for the period of six months.

[26] In a subsequent part of this same debate, Mr. Macon retracted this censure upon the Quakers, as being too general.

[27] Acts of limitation have been found necessary in all countries, and in all sorts of claims, to quiet demands, bring things to settlement, and to protect the fair dealer from stale demands, after time and accidents have deprived him of the means of invalidating them. Necessary in the transactions of individuals, they become still more so in the transactions of the Government. Its officers are constantly changing, and the knowledge of transactions continually being lost, and the representatives of the Government without the personal interest which stimulates inquiry and invigorates defence. The Government becomes helpless against claims, even the most unjustifiable, after the lapse of some years; and, without the protection of a statute of limitations, is subject to continual impositions. This was well known to the conductors of our Revolution, and the founders of our Federal Government; and they took care, as they believed, to provide against a danger which they knew to be imminent. Equally solicitous to pay every valid claim, and to avoid the payment of unjust ones, they began even during the war to call upon all claimants to present their demands—to furnish abstracts when the case was not ready to be proved up. These calls were redoubled at the conclusion of peace, were repeated during the existence of the confederation, and reiterated at the formation of the new Government under the constitution. They took the form of law, and barred the claims which were not presented within limited times. The final bar was seven years after the new Government went into operation. The committee, of which Mr. Gallatin was chairman, made an enumeration of these different statutes, and reported in favor of their observance—a report in which the House concurred, and to which Congress then conformed its action. These statutes, and the reasons in which they were founded, seem to have been since forgotten; and stale claims let in upon the Treasury without restraint, and proved without difficulty, which no call could bring forth at the time they were supposed to have originated. It is instructive to look over the list of these statutes, and see the reasons in which they were founded, and the efforts made to call in all valid claims, and the attention paid to them fifty years ago, and the disregard since.

[28] Upon the request of General Washington the Count de Grasse remained in the Chesapeake beyond the time which his instructions allowed, risking all the penalties of insubordination, and by so doing did what was indispensable to the capture of Lord Cornwallis.

[29] This was the first debate on the prohibition of Slavery in a Territory which took place under the Federal Constitution, and it is to be observed that the constitutional power of Congress to make the prohibition, was not questioned by any speaker. Expedient objections only were urged.

[30] The speaker here alludes to the paper called "the second treaty of Pilnitz," which he declares to be a forgery. The first treaty of Pilnitz was a mere conditional agreement between the Emperor and the King of Prussia, that if either of them should be attacked by France, they would unite to repel the attack. This treaty they avowed; and when, on the acceptance of the new Constitution by the King of France, better prospects of a peaceable conduct on the part of that nation were entertained, they suspended this treaty by a formal declaration.

[31] Thus, by a close vote, the Naval Department was created; and, as the proceedings show, by a party vote—the Republicans of that day being against a Navy.

[32] The allusion was to Mr. Liston, the British Minister, accused of complicity with Senator Blount, of Tennessee, in a scheme to send an expedition against the Spanish province of West Florida, in breach of our neutrality, Great Britain and Spain being then at war, and the United States at peace with both. Mr. Blount was expelled the Senate for his part in that affair, but it was only the beginning of the enterprises which ended twenty years afterwards in adding both East and West Florida to the United States. These provinces were geographically appurtenant to the American Union, and their possession essential to its political system. The desire for their acquisition was natural, and efforts to obtain them incessant, until the acquisition was made.

[33] The call was made with a view to the final vote on the Provisional Army Bill, and the way in which the absentees were accounted for—one sick and the rest on leave—was highly creditable to the members.

[34] Whereas, armed vessels sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coast, in violation of the law of nations, and treaties between the United States and the French nation: Therefore,

*Be it enacted, &c.,* That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States, for the purpose of committing depredations on the vessels belonging to citizens thereof; and, also, to retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel.

[35] At this period it was the custom of Congress to have the funerals of members in the morning or evening, before the meeting, or after the adjournment of the Houses.

[36] I allude to my painful residence here, as a political cipher.

[37] The general consent with which this answer was voted was honorable to the House, and advantageous to the character of the country. Besides depredations on our commerce, there was, at that time, a course of studied indignities to the United States from the

French Government, then having the form of a Directory, of which *Barras* was President, and Talleyrand Foreign Secretary. These indignities were marked and systematic; of which the speech of *Barras* to Mr. Monroe when he had his take-leave audience—the refusal to receive his successor, General Charles Cotesworth Pinckney, and insolent threat to commit him to the police as a mere foreigner in Paris—the subsequent refusal to receive both himself and Judge Marshall, sending them out of the country, and endeavoring to divide the embassy—intriguing to extort a bribe, and to obtain a loan in violation of our neutrality—and not only proclaiming but acting on the assumption that we were a divided people, (French and British,) and that a devotion to one or the other of these powers, and not a sentiment of American nationality, was the sole rule of our policy. The unanimity of the answer to the President's Speech was a proper reply to all this outrage and insult. And the re-echoed declaration of protection "*to the sacred rights of embassy*," was not only just in itself, and called for by the occasion, but was due to the personal characters, the dignity and decorum of the two repulsed Ministers, (Messrs. Pinckney and Marshall,) as well as to their official station and the nation they represented.

- [38] Then in a state of successful revolt against France, but her independence not acknowledged.
- [39] A strong expression, but justified by what had been seen in St. Domingo.
- [40] This whole debate abounds with valuable information on the condition of the French West Indies—political, commercial and historical—during the period of the French Revolution. Toussaint, Santhonax, Polverel, Victor Hugues, Hedouville, Rigaud, Deformeaux, were household words fifty years ago; and words of portent in their day, and giving shape to events of present import—though hardly known now.
- [41] The House was in Committee of the Whole, but still the speakers were held to the point, and hence the force and brevity, and instructive character of these early debates.
- [42] It was not the custom then to adjourn the Houses to attend the funeral of a member. The burial took place before, or after, the day's session.
- [43] In our service the time has been stated at much less—at every eight or ten years.
- [44] The following extract from the celebrated report and resolutions of the General Assembly of Virginia, in the year 1799, speak the sentiments of the democratic party of that day on the subject of a Navy: "With respect to the Navy, it may be proper to remind you that whatever may be the proposed object, or whatever may be the prospect of temporary advantages resulting therefrom, it is demonstrated by the experience of all nations who have ventured far into naval policy, that such prospect is ultimately delusive; and that a navy has ever in practice been known more as an instrument of power, a source of expense, and an occasion of collisions and wars with other nations, than as an instrument of defence, of economy, or of protection to commerce." And among the resolutions then adopted, she instructs her Representatives and requests her Senators as follows: "To prevent any augmentation of the navy, and to promote any proposition for reducing it within the narrowest limits compatible with the protection of the sea-coasts, ports and harbors of the United States, and of consequence a proportionate reduction of the taxes."
- [45] These assurances were given by the same Directory, and through the same Minister of Foreign Affairs, (Talleyrand,) who had refused to receive Messrs. Pinckney and Marshall; and, on receiving these assurances, another extraordinary mission of three eminent citizens was appointed to proceed to Paris. They were: Oliver Ellsworth, Chief Justice of the Supreme Court of the United States; William Richardson Davie, late Governor of the State of North Carolina; and William Vans Murray, U. S. Minister Resident at the Hague. Before they arrived at Paris, the Revolution of the 18th *Brumaire* had occurred—the Directorial Government overturned, the Consulate established, and Buonaparte at the head of affairs. He retained Talleyrand in the Foreign Ministry, and that astute and supple character conformed as readily to the policy of the First Consul, (peace with the United States,) as he had complied with the contrary policy of the Directory.
- [46] The allusions were to Mr. Jay and Mr. Ellsworth, appointed to foreign embassies while chief Justices—the former by President Washington, the latter by President John Adams.
- [47] This was the famous Judiciary act, passed in the last days of Mr. Adams' administration, and increasing the number of federal judges, which gave so much dissatisfaction at the time, and which was repealed in the beginning of Mr. Jefferson's administration.
- [48] The prints referred to by Mr. Trumbull, in his letter to the Speaker of the House of Representatives, are, first, a representation of the Battle of Quebec, and death of General Montgomery; second, the Battle of Bunker's Hill—both elegant engravings. They are placed on the right and left of the Speaker's chair, and are highly ornamental to the Representatives' Chamber.
- [49] This was a skilful movement, and a fair one. It shifted the *onus* from the friends to the opponents of the President; and besides giving them the advantage of the defensive, impeded the supporters of Mr. Livingston's motion with preliminary and extrinsic questions from the start. It was a great party question in its day, and before the people chiefly turned upon the point that Robbins was an American citizen, while in Congress that point was given up, and the debate turned upon the legal right of the President to advise the judge to give up the man, and especially to giving him up without trying his claim to American citizenship. Though made, in the main, a party question, it was not entirely so in the vote, many of the democracy voting with the federal members in justification of Mr. Adams. It was in this debate that the (afterwards) Chief Justice Marshall made the speech which gained him so much fame.
- [50] This speech is not reported.
- [51] This speech is not reported.

- [52] Not reported.
- [53] Not reported.
- [54] Son of Mr. James Jarvis, of New York, and midshipman on board the *Constellation* in the engagement of the 1st of February, who was killed by the falling of the mast.
- [55] The First Meeting of Congress at Washington City.
- [56] Citizen Talleyrand, retained under the Consulate as Minister of Exterior Relations, was the organ of our Ministers' communications with the First Consul, and his language and deportment on their arrival present a fine contrast to what they were in the time of the Directory, and of the X., Y., Z. subaltern intriguers. Thus, arriving in Paris on the 2d of March, they notify the Citizen Minister of that fact on the 3d, and the same day receive this answer: "The information which you have just communicated of your arrival at Paris, has given me real satisfaction. If you will take the trouble to call upon me at half-past twelve to-morrow, I will be exceedingly glad to have the honor of receiving you." They called as requested, and were treated with all courtesy; and, having expressed a desire to be presented to the First Consul, they received the next day the evidence that he had attended to their request and accomplished it, and giving the hour they were to be "so obliging" as to attend in the Hall of the Ambassadors, in the Palace of the Tuileries. And in notifying them that a commission was appointed to treat with them, he expressed himself with amiable politeness, "to remove a misunderstanding which comports as little with the interests as with the sentiments of the two Governments."
- [57] Subject to the disapproval of Congress, and to remain in force until disapproved—this Territory being a copy in its Government of that of the North-west under the Ordinance of the 13th July, 1787, except in the anti-slavery clause.
- [58] Nominated Secretary at War, May 7th, 1800. Nomination postponed on the 9th of May. Appointed May 13th Secretary of State, appointed Chief Justice of the Supreme Court of the United States, Jan. 27th, 1801. Died 1835.
- [59] Twenty-two years afterwards this opinion was verified, and the system abolished, after thirty years of injurious existence—so hard is it to get rid of an evil establishment when it has once got foothold.
- [60] This result was due, more than to any other, to General Hamilton, as the majority of the federal party were strongly disposed to support Colonel Burr—from doing which, they were impressively and successfully counselled by him. He was personally well with Burr, and ill with Jefferson, but took the public good, and not his own feelings, for his guide. He said of them, and of his own duty between them: "If there be a man in the world I ought to hate, it is Jefferson. With Burr I have always been personally well. But the public good must be paramount to every private consideration." The danger of Burr's election was imminent, as appears from a letter of Bayard's to General Hamilton, wherein he says: "I assure you, sir, there appears to be a strong inclination in the Federal party to support Mr. Burr. The current has already (January 7th) acquired considerable force, and is manifestly increasing. The vote which the representation of a State enables me to give would decide the question in favor of Mr. Jefferson. At present I am by no means decided as to the object of preference. If the Federal Party should take up Mr. Burr, I ought certainly to be impressed with the most undoubting conviction before I separate myself from them." This passage from a letter of Mr. Bayard, (who afterwards decided the election,) shows the imminence of the danger of Burr's election; and the answer to it, (with letters to other federal members,) shows that that danger was averted by General Hamilton. In these letters he depicted Burr as morally and politically a bad man, utterly unfit and unsafe to be trusted with the Presidency, and in circumstances to make crime his necessity as well as his inclination, and implored him to save the country from the "*calamity*" of his election. The sting of these letters, rankling in the bosom of Burr, produced the duel in which General Hamilton afterwards lost his life. A singularly hard fate! to die for serving his country, and that in the person of an enemy.

This election in the House of Representatives, protracted through four days and to the 36th ballot, produced the most intense excitement throughout the United States, and filled the minds of all good men with alarm for the safety of the Union. The conclusion, however, showing ten States to have voted for Mr. Jefferson, and only four for Mr. Burr, shows that there were many members duly impressed with the solemnity of the crisis, and patriotically coming forward to sacrifice private and political feeling on the altar of public safety. The following detail of the 36 ballotings, all alike but the last, appeared in the *National Intelligencer* at the time, and shows the name and the vote of the different members in this most arduous and eventful struggle.

[From the *National Intelligencer*, of Feb. 17 and 18, 1801.]

That the people may know how the votes of their Representatives have been given, we present a statement:

*New Hampshire*.—4 for Burr, viz: Mr. Foster, Mr. Sheafe, Mr. Tenney, and Mr. Freeman.

*Massachusetts*.—11 for Burr, viz: Mr. S. Lee, Mr. Otis, Mr. N. Read, Mr. Shepard, Mr. Thatcher, Mr. Wadsworth, Mr. L. Williams, Mr. Bartlett, Mr. Mattoon, Mr. J. Read, Mr. Sedgwick.

Three for Jefferson, viz: Mr. Bishop, Mr. Varnum, Mr. Lincoln.

*Rhode Island*.—2 for Burr, viz: Mr. Champlin, and Mr. J. Brown.

*Connecticut*.—7 for Burr, viz: Mr. C. Goodrich, Mr. E. Goodrich, Griswold, Mr. Dana, Mr. J. Davenport, Mr. Edmond, Mr. J. C. Smith.

*Vermont*.—1 for Jefferson, viz: Mr. Lyon.

One for Burr, viz: Mr. Morris.



*New York*.—6 for Mr. Jefferson, viz: Mr. Bailey, Mr. Thompson, Mr. Livingston, Mr. Elmendorph, Mr. Van Cortlandt, Mr. J. Smith.

Four for Mr. Burr, viz: Mr. Bird, Mr. Glenn, Mr. Cooper, Mr. Platt.

*New Jersey*.—3 for Jefferson, viz: Mr. Kitchell, Mr. Condit, Mr. Linn.

Two for Burr, viz: Mr. F. Davenport, Mr. Imlay.

*Pennsylvania*.—9 for Mr. Jefferson, viz: Mr. Gallatin, Mr. Gregg, Mr. Hanna, Mr. Leib, Mr. Smilie, Mr. Muhlenberg, Mr. Heister, Mr. Stewart, Mr. R. Brown.

Four for Burr, viz: Mr. Waln, Mr. Kittera, Mr. Thomas, Mr. Woods.

*Delaware*.—1 for Mr. Burr, viz: Mr. Bayard.

*Maryland*.—4 for Mr. Jefferson, viz: Mr. S. Smith, Mr. Dent, Mr. Nicholson, Mr. Christie.

Four for Mr. Burr, viz: Mr. J. C. Thomas, Mr. Craik, Mr. Dennis, and Mr. Baer.

*Virginia*.—14 invariably for Mr. Jefferson, viz: Mr. Nicholas, Mr. Clay, Mr. Cabell, Mr. Dawson, Mr. Eggleston, Mr. Goode, Mr. Gray, Mr. Holmes, Mr. Jackson, Mr. New, Mr. Randolph, Mr. A. Trigg, Mr. J. Trigg, Mr. Tazewell.

Five for Mr. Burr on the same ballots, (two of whom on the first ballot voted for Mr. Jefferson,) viz: Mr. Evans, Mr. H. Lee, Mr. Page, Mr. Parker, Mr. Powell.

*North Carolina*.—6 invariably for Mr. Jefferson, viz: Mr. Alston, Mr. Macon, Mr. Stanford, Mr. Stone, Mr. R. Williams, Mr. Spaight.

Four for Burr on some ballots, (3 of whom on the first ballot voted for Mr. Jefferson,) viz: Mr. Henderson, Mr. Hill, Mr. Dickson, Mr. Grove.

*South Carolina*.—Mr. Sumter being sick has not attended, but will attend, at every hazard, the moment his vote can be of any avail. The individual votes of the Representatives of this State are not accurately known, but it is generally believed that Mr. Huger votes for Mr. Jefferson; and Mr. Rutledge, Mr. Pinckney, and Mr. Harper, vote for Mr. Burr. Mr. Nott's vote is doubtful. He has gone home.

*Georgia*.—1 for Jefferson, viz: Mr. Taliaferro—Mr. Jones, who is dead, would have voted the same way.

*Kentucky*.—2 for Mr. Jefferson, viz: Mr. Davis and Mr. Fowler.

*Tennessee*.—1 for Mr. Jefferson, viz: Mr. Claiborne.

On Saturday last a memorial was presented to John Chew Thomas, representative in Congress for this District, from a respectable number of his constituents, recommending him to vote for Thomas Jefferson, and declaring that at least two-thirds of his constituents were in favor of the election of Mr. Jefferson.

The memorial was signed by the most respectable Federal gentlemen of the City of Washington.

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[From the National Intelligencer, of Feb. 18.]

On Tuesday at 12 o'clock the 35th ballot was taken; the result the same with that of the preceding ballots.

At one o'clock the 36th ballot was taken which issued in the election of Thomas Jefferson.

On this ballot there were,

Ten States for Mr. Jefferson, viz: Vermont, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, Kentucky, and Tennessee.

Four States for Mr. Burr, viz: Rhode Island, New Hampshire, Connecticut, and Massachusetts.

Two States voted by blank ballots, viz: Delaware and South Carolina.

In the instance of Vermont, Mr. Morris withdrew.

In that of South Carolina, Mr. Huger, who is understood previously uniformly to have voted for Mr. Jefferson, also withdrew, from a spirit of accommodation, which enabled South Carolina to give a blank vote.

And in the instance of Maryland, four votes were for Jefferson and four blank.

[61] The administration of Mr. Adams fell upon difficult times, and involved the necessity of measures always unpopular in themselves, and never more so than at that time. The actual aggressions of France upon our commerce, her threats of war, and insults to our ministers, required preparations to be made for war; and these could not be made without money, nor money be had without loans and taxes. Fifteen millions was the required expenditure of the last year of his administration; a large sum in that time, but almost the whole of which went to three objects; the army, the navy, and the public debt. The support of the Government remained at the moderate sum which it had previously presented; to wit, \$560,000. The duties still remained moderate—the *ad valorem*s, 10, 12-1/2, 15 and 20 per centum; and the latter more nominal than real, as it only fell upon a few articles of luxury, of which the importation was only to the value of \$430,000. The main levy fell upon the 10 and 12-1/2 per centum classes, of which to the value of 26-1/2 millions were imported; of the 15 per centum class only 7-1/2 millions were imported; and the average of the whole was 13 per centum and a fraction. The specifics were increased, but not considerably; and the cost of collecting the whole was 4-1/2 per centum. Direct taxes and loans made up the remainder. The whole amount collected from duties was about 10 millions: to be precise, \$10,126,213; that is to say, nearly

twenty times as much as the support of the Government (comprehending every civil object) required. The administration of Mr. Adams, though condemned for extravagance, was strictly economical in the support of the Government, and in the collection of the revenue: the army and the navy, those cormorant objects of expenditure, brought the demands for money which injured the administration.

[62] This is the first instance of a *Message* being sent to the two Houses at the commencement of a session. Though veiled and commended by temporary reasons, founded in the convenience of the members and placed in the fore part of the letter, yet the concluding reasons (which are of a general and permanent nature) disclose the true reasons for the change—which was, to make it permanent: and permanent it has been. It was one of Mr. Jefferson's reforms—the former way of assembling the two Houses to hear an address in person from the President, returning an answer to it, the two Houses going in form to present their answer, and the intervention of repeated committees to arrange the details of these ceremonious meetings, being considered too close an imitation of the royal mode of opening a British Parliament. Some of the democratic friends of Mr. Jefferson doubted whether this change was a reform, in that part of it which dispensed with the answers to the President. Their view of it was, that the answer to the Speech, or Message, afforded a regular occasion for speaking to the state of the Union, and to all the topics presented; which speaking, losing its regular vent, would afterwards break out irregularly on the discussion of particular measures, and to the interruption of the business on hand. Experience has developed that irregularity, and another—that of speaking to the Message on the motions to refer particular clauses of it to appropriate committees, thereby delaying the reference; and, in one instance during Mr. Fillmore's administration, preventing the reference during the entire session.

[63] [From the National Intelligencer of Jan. 8, 1802.]

On Monday last the editor addressed a letter to the President of the Senate, requesting permission to occupy a position in the lower area of the Senate Chamber, for the purpose of taking with correctness the debates and proceedings of that body.

It may be necessary to remark that heretofore no stenographer has been admitted in this area; and the upper gallery, being open to the admission of every one, and very remote from the floor of the House, has prevented any attempt being made to take the debates, from the impossibility of hearing distinctly from it.

The contents of the letter were submitted by the President to the Senate; and a resolution agreed to, to the following effect: *Resolved*, That any stenographer, desirous to take the debates of the Senate on Legislative business, may be admitted for that purpose, at such place, within the area of the Senate Chamber, as the President shall allot.

On Wednesday the editor had, accordingly, assigned to him a convenient place in the lower area, from which he took notes of the proceedings of the Senate. On the adoption of the above resolution, which opens a new door to public information, and which may be considered as the prelude to a more genuine sympathy between the Senate and the people of the United States, than may have heretofore subsisted, by rendering each better acquainted with the other, we congratulate, without qualification, every friend to the true principles of our republican institutions.

[64] This motion gave rise to one of the most extended and earnest debates which had occurred in Congress, involving the interests and passions of party, as well as questions of high constitutional law and of great public expediency; and was brought on in the approved parliamentary form of a resolution to try the principle, unembarrassed with the details of a new bill. The law proposed to be repealed, besides adding sixteen new circuit judges at once to the federal bench, (making 38 in all,) was passed in the last days of an expiring administration, and the appointments made in these last moments, and well confined to one political party: so that many reasons conspired to make it objectionable on one hand and desirable on the other, and to call forth the strongest exertions both for, and against, the repeal.

[65] It was a party vote, and a close one, some changes of members having changed the majority since the last session—then a bare majority on the Federal side.

[66] A debate of great length and earnestness now took place in the House on this repealing bill sent down from the Senate, and passed there by a majority of only one. The two parties seemed to have staked themselves upon it, not before the House, (where the issue was certain,) but before the country, to the arbitrament of which the great appeal was made. Above thirty members delivered elaborate speeches, of which but small parts can be given in an abridgment—the less to be regretted, as the staple of each was, of necessity, much the same—but varied, enlivened and enforced by the peculiar talent, learning and ability of different speakers. Their names were—for the repeal: John Bacon, of Massachusetts; John Clopton, of Virginia; Thomas T. Davis, of Kentucky; John Dawson, of Virginia; William B. Giles, of Virginia; Andrew Gregg, of Pennsylvania; Nathaniel Macon, of North Carolina; John Milledge, of Georgia; Thomas Morris, of New York; Joseph H. Nicholson, of Maryland; John Randolph, of Virginia; General Samuel Smith, of Maryland; Philip R. Thompson, of Virginia; James Holland and Robert Williams, of North Carolina.—Against the repeal: James A. Bayard, of Delaware; Manasseh Cutter, of Massachusetts; Samuel W. Dana, of Connecticut; John Dennis, of Maryland; Thomas Plater, of Maryland; William Eustis, of Massachusetts; Calvin Goddard, of Connecticut; Roger Griswold, of Connecticut; Seth Hastings, of Massachusetts; Joseph Hemphill, of Pennsylvania; Archibald Henderson, of North Carolina; William H. Hill, of North Carolina; Benjamin Huger, of South Carolina; Thomas Lowndes, of South Carolina; John Rutledge, of South Carolina; John Stanley, of North Carolina; Benjamin Tallmadge, of New York.

[67] The detail of the vote on the balloting shows this fact, so creditable to South Carolina.

[68] This is the first authentic declaration that Mr. Jefferson's opinion on slavery was an

obstacle to his receiving the South Carolina vote.

[69] A double movement was going on at the same time in relation to the violation of the right of deposit at New Orleans: one by the Administration, commencing with an embassy both to France and Spain to negotiate for the desired places; the other by the opposition, who held negotiation to be unworthy of the country in circumstances of such wrong and insult, and preferred the immediate seizure of New Orleans. Mr. Ross, a Pennsylvania Senator, from the west of the State, whose trade went to New Orleans, was the leader of this forcible movement—in which he was well sustained by the *feeling* of the whole West. It was on Mr. Ross's resolutions that this violation of the right of deposit at New Orleans was publicly debated; and as it concerned the free navigation of the Mississippi, it was called the "Mississippi question."

[70] This is the act which began the movement, which ended in the purchase of Louisiana. At the time it was passed the views of no one extended to the acquisition of that great province. The island on which New Orleans stands, and the two Floridas, were the object. Even this object was veiled by general expressions in relation to foreign intercourse, but its true purpose was made known in a confidential communication from the President to the House of Representatives, and by it communicated to the Senate, when the bill was up for its concurrence. Mr. Bayard and Mr. Nicholson were the committee that carried up the bill, and delivered this message:

*"Gentlemen of the Senate:*

"We transmit you a bill, which has passed this House, entitled "An act making further provision for the expenses attending the intercourse between the United States and foreign nations," and in which we request your concurrence. This bill has been passed by us in order to enable the President of the United States to commence, with more effect, a negotiation with the French and Spanish Governments, relative to the purchase of the island of New Orleans, and the provinces of East and West Florida. The nature and importance of the measures contemplated, have induced us to act upon the subject with closed doors. You will, of consequence, consider this communication as confidential."

[71] This was spoken before the campaigns of Ulm, Austerlitz and Jena.

[72] The true reason for the non-circulation of gold was the erroneous valuation of that coin, which was not corrected until thirty years afterwards.

[73] This speech, delivered in the Virginia Convention which ratified the Federal constitution, is the only full and perfect account of the transaction to which it refers that has ever been published. It refers to the design in the Congress of the confederation to give up the navigation of the Mississippi for 25 or 30 years in return for some commercial privileges from Spain—a design which Mr. Monroe was mainly instrumental in defeating, and for which he deserved still higher rewards than honor and gratitude. His reluctance to give the history of this transaction arose from its secret nature, the Congress of the confederation sitting upon it with closed doors, and the members being under injunctions not to disclose what was done. Its essentiality to a knowledge of the political history of the times must be apparent to all who read it.

[74] The famous orator.

[75] See *ante*, under date of December 22.

[76] All the steps and proceedings which led to the acquisition of Louisiana (and the same occurred in the acquisition of Florida) are given in full, that it may be seen that this important negotiation, which was to involve an appropriation of money, had its foundation laid in the authority of the proper appropriating power—the House of Representatives; to which the purse-strings of the Union were specially confided.

[77] Above forty years afterwards, to wit, in 1846, the Virginia part of the District was retroceded to that State.

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